161.

SUPREME COURT OF THE UNITED STATES.

No. ~~1083.~~ 13.

THE MAYOR, ALDERMEN, AND INHABITANTS OF NEW-ORLEANS, APPELLANTS,

VERSUS

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR EAST LOUISIANA.

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COURT OF THE UNITED STATES—*Eastern District of Louisiana.*

Be it remembered, that on the third day of March, in the year of our Lord one thousand eight hundred and twenty-five, into the district court of the United States for the eastern district of Louisiana, came the United States of America, by John W. Smith, esquire, then their attorney for the said district, and filed the following petition, to wit:

To the honorable Thomas Bolling Robertson, Judge of the District Court of the United States, within and for the Eastern District of Louisiana:

Petition.

The petition of the attorney of the United States, within and for the said district, prosecuting in their name, and on their behalf, respectfully states—

That the mayor of the city of New Orleans, in pursuance of an ordinance of the city council thereof to that effect, hath advertised for sale, for a day now past, and as your petitioner is informed and believes, is about soon to advertise anew, for sale, in lots, the vacant land included between Ursuline, Levee and Garrison streets, and the public road in the city of New Orleans; and also the vacant land included between Custom-house, Levee and Bienville streets and the public road, in the said city.

Your petitioner, in the name and on the behalf aforesaid, further states, that, by the treaty of cession of the late province of Louisiana by the then French Republic to the United States of America, the United States succeeded to all the antecedent rights of France and Spain. as they then were, in and over the said province, the dominion and possession thereof, including all lands which were not private property, and that the dominion and possession of the said vacant lands, so as aforesaid endeavored to be sold by the

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said city council, had, ever since the discovery and occupation of the said province by France, remained vested in the sovereign, and had not, at any time prior to the date of the said treaty, been granted by the sovereign to the said city.

Wherefore, and inasmuch as the said attempt of the said city council to sell the said lands as private property, is an invasion of the rightful dominion and possession of the United States in the premises, your petitioner, prosecuting in the name and on the behalf aforesaid, prays that the mayor, aldermen, and inhabitants of the city of New Orleans, may be duly summoned to appear and answer this petition; and that, in the meanwhile, they may be inhibited, by injunction, from proceeding further in the said attempt, or from doing any other act whatsoever tending to invade the rightful dominion and possession of the United States in the said land; and that, after due proceedings had, it may be ordered, adjudged and decreed, that the said injunction be made perpetual. And your petitioner, prosecuting in the name, and in the behalf aforesaid, prays all other suitable and needful relief. And, as in duty bound, will ever pray.

J. W. SMITH,
Att'y of the U. S. East. Dist. of Louisiana.

J. W. Smith, the said attorney, being duly sworn, doth depose, that the foregoing allegations are, as he doth verily believe, true.

J. W. SMITH.

Sworn to before me:
TH. B. ROBERTSON, *Judge U. S. Court,*
Dist. Louisiana, 3d March, 1825.

Judge's Order.

Let an injunction issue, as prayed for.

TH. B. ROBERTSON,
Judge of the U. S. East. Dist. Louis'a.

March 3d, 1825.

And afterwards, to wit, on the 5th day of March, 1825, the following writ of injunction was issued from the Clerk's office, to wit:

Injunction.

The President of the United States of America, to the Mayor, Aldermen, and Inhabitants of New Orleans, Greeting:

Whereas, it has been represented to the district court of the United States for the eastern district of Louisiana, by the attorney of the United States prosecuting therein in their name and on their behalf, that the city council of the said city, by an ordinance of the date of the July last, have directed and required the mayor of said city, to advertise for sale, and to sell at public auction, the vacant ground in the city of New Orleans, included between Ursuline, Levee and Garrison streets and the public road; and also the vacant ground therein included, between Custom-house, Levee and Bienville streets and the public road, and that the said vacant ground hath been accordingly advertised for sale.

Now, therefore, you and such of you are hereby strictly enjoined and commanded, that you and each of you do absolutely desist from all further proceedings touching the sale of the said vacant lands, and from every act

whatsoever tending, in any way, to invade or interfere with the dominion and possession of the United States in the said land, until the further order of the said court.

Witness the hon'ble Thomas B. Robertson, Judge of the said court, this [L. s.] 5th day of March, in the year of our Lord 1825, and of the independence of the United States the 49th.

SAM. H. HARPER, *Clerk.*

Upon which writ, the marshal made the following return, to wit:

Marshal's Return.

Served a copy of the herein written personally on the mayor, on the 5th March, 1825, and returned into court same day.

JAS. N. FOLWELL, *D. M.*

And afterwards, to wit, on the said 5th March, 1831, the following citation was issued from the Clerk's office, to wit:

Citation.

The President of the United States of America, to the Marshal of the Eastern District of Louisiana, or to his lawful Deputy, Greeting:

You are hereby commanded to cite the mayor, aldermen and inhabitants of the city of New Orleans, so that they be and appear at the district court of the United States for the eastern district of Louisiana, to be holden in the city of New Orleans on the 3d Monday of May, 1825, to answer to the complaint of the United States; and that they do file their defence or answer with the clerk of said court on or before the same, or judgment will be given against them by default, and have you then and there this writ.

Witness the Hon. Th. B. Robertson, Judge of said court, at the city of [L. s.] New Orleans, this 5th day of March, 1825, and 49th year of the independence of the United States.

SAM. H. HARPER, *Clerk.*

Upon which citation the marshal made the following return, to wit:

Marshal's Return.

Served a copy of the herein written personally on the mayor, on the 5th March, 1825, and returned into court same day.

JAS. N. FOLWELL, *D. M.*

And afterwards, to wit, on the 10th day of December, 1827, came the siad mayor, aldermen and inhabitants of the city of New Orleans, by their counsel, Morean Lislet and Mazureau, and filed the following answer, to wit:

Answer.

To the honorable Thomas Bolling Robertson, Judge of the District Court of the United States, within and for the Eastern District of Louisiana:

The answer of the mayor, aldermen and inhabitants of the city of New Orleans, to the petition of the attorney of the United States, within and for the said district, prosecuting in their name and on their behalf:

These defendants, saving and reserving to themselves the faculty of show-

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ing when, and in case it should be necessary to do so, the right or rights, by virtue of which the said mayor of New Orleans, in pursuance of an ordinance of the city council thereof, has attempted to cause to be sold, in lots, the pretended vacant land included between Ursuline, Levee and Garrison and the public road in the said city, and also the pretended vacant land included between Custom-house, Levee and Bienville streets and the public road in the city aforesaid. In answer to the said petition, or unto so much as it may be necessary for them at present to answer unto, answer and say: That they generally deny all and singular the material facts and allegations in the said petition contained; and these defendants for further answer say: that they most positively deny that the dominion and possession of the pretended vacant land, endeavored as aforesaid to be sold by said ordinance of the said city council, was, or did, (at the time of the treaty of cession of the late province of Louisiana to the United States of America,) remain vested in either the King of Spain, or the sovereign of France, either as vacant land or under any other denomination, and that the same passed as such to the said United States.

Therefore, these defendants, putting, as they do put, the petitioners to the strict proof of all and singular the material facts and allegations contained in the said petition, and herein positively denied, humbly pray that the said petition may be dismissed, with costs, and the injunction granted thereon set aside.

And these defendants, as in duty bound, will ever pray.

MAZUREAU,
MOREAU LISLET,
of Counsel for Defendants.

And afterwards, to wit, on the 3d day of December, 1829, came the aforesaid Mayor, aldermen and inhabitants of New Orleans, by their counsel, Morean Lislet, and filed the following supplemental answer, to wit:

Supplemental Answer.

The supplementary answer of the mayor, aldermen and inhabitants of the city of New Orleans, to the petition of the district attorney of the United States for the eastern district of Louisiana, prosecuting therein in the name and behalf of the United States.

These respondents beg leave to add the following pleas to those which are contained in the answer to which this is a supplement, at the end thereof, and before the prayer by which said answer is concluded, to wit:

And these respondents further say, that the inhabitants of the city of New Orleans are the true and lawful proprietors of the vacant lots they have been enjoined not to sell.

1st, Because all the space of ground which exist between the front line of the houses of this city and the river Mississippi, was left by the King of France, under the name of *quays*, for the use and benefit of the said inhabitants, as appears, and shall be proved by authentic copies of the original plans of the foundation of this city; which shall be produced on the trial of this case.

2dly, Because, if since the foundation of the city of New Orleans, said space of ground became wider than it was necessary for the public use, and the *quays* of this city, it was in consequence of an increase formed by alluvion in the greatest part of the front of this city, and the works which were

successively made from time immemorial by the inhabitants of the city, or at their expense, to the Levee in front thereof, to advance it nearer to the river than it was formerly.

3dly, Because, by the laws of Spain which were in force at the time when said alluvions were formed and said works were made, alluvions formed by rivers in front of cities, belonged to the inhabitants thereof, who may dispose of the same as they think it convenient, on their leaving what is necessary for the public use.

And these respondents further say, that all the vacant lots claimed in the said petition, are worth the sum of at least sixty thousand dollars, the property and disposal of which these respondents cannot be deprived unless they were previously indemnified therefor by the Government of the U. S. all which matters these respondents pray may be inquired into by a jury, these respondents declaring to put themselves on the country.

Therefore, &c.

MOREAU LISLET,
of Counsel for Respondents.

And afterwards, to wit, on the said 3d December, 1829, came the United States, by John Slidell, esquire, their attorney, and filed the following replication, to wit:

Replication.

To the honorable Samuel H. Harper, Judge of the District Court of the United States for the Eastern District of Louisiana:

The replication of the United States, complainants, as well to the answer of the mayor, aldermen and inhabitants of the city of New Orleans, defendants, as to the supplemental answer by them filed, shows, that these respondents, saving and reserving to themselves all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer and supplemental answer of said defendants, for replication thereunto say, that they do deny all and singular the allegations in said answer and supplemental answer contained, and pray, as in their original petition they have already prayed.

JNO. SLIDELL, *Dist. Att'y.*

And afterwards, to wit, on the 13th day of December, 1830, the following order of court was entered on record, to wit:

Order of Court.

MONDAY, *December* 13, 1830.

No. 2179. The UNITED STATES, *vs.* MAYOR, ALDERMEN, &c.

On motion of John Slidell, D. Att'y, and on filing an agreement of parties in this case, it is ordered that a venire issue, returnable on the 17th January, 1831, to the marshal, to summon the persons named in the memorandum filed, this day, to serve as jurors in said cause.

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Agreement.

2179. UNITED STATES, *vs.* MAYOR, ALDERMEN AND INHABITANTS OF N. ORLEANS. } U. S. District Court.

Agreement for Special Jury.

It is agreed, that these cases shall be tried by a jury, to be composed in the following manner: The parties respectively designate, each, the names of eighteen jurors, residing in parishes other than that of New Orleans: from each of these lists the opposite party may strike off six names. The remaining persons shall be summoned by the marshal, and a jury, (drawn by lot from the number,) of twenty four. The lists above referred to are hereto annexed.

List of Jurors designated by U. S.

Pluquemine.

1.
2.
3.
4. George B. Milligan,
5. Isaac Osgood,
6.
7.
8. Benjamin F. Smith.

Jefferson.

9.
10. Wm. McQueen,
11. John Holliday.

St. Charles, &c.

12. ———Kenner,
13. John B. Humphreys,
14. C. M. Shepherd,
15. George Mather,
16. Philip Hicky.

St. Bernard.

17. Stephen R. Proctor,
18. Richard Richardson,

MOREAU LISLET,
for the Corporation.

List of Jurors designated by the Corporation.

List of Jury—Defendants.

1. *Paroisse Jefferson.*

1. Pascalis Labarre, aîné,
2. Francois Lacestirre Labaur,
3.
4. Antoine Foucher, fils,
5.
6. John S. David,
7.
8. Varloin De Gruys.

2. *Barataria.*

9.
10. Michel Commugère,

3. *Paroisse St. Charles.*

11. Michel Aynu,
12. Octave Labranche,
13. Adelard Fortier.

4. *Paroisse St. Bernard.*

14.
15. L. Toutant Beauregard,
16. B. Beauregard,
17.
18. Magloise Guichard.

MOREAU LISLET,
of Counsel for the Corporation.

And afterwards, to wit, on the 5th day of January, 1831, the following order of court was entered on record, to wit:

WEDNESDAY, *5th January*, 1831.

The court met pursuant to adjournment.
Present: Hon. Samuel H. Harper.

2179. The UNITED STATES, *vs.* The MAYOR, ALDERMEN, &c. OF NEW ORLEANS.

Order of Court.

On motion of the district attorney, ordered, that the defendants in these cases do produce, in court, on the trial of the same, on Monday the 17th January instant, the records of the common council of the city of New Orleans, containing the following documents, to wit: The act or procés-verbal of the said common council, dated on or about the 10th November, 1807, by which the defendants expressed their assent to the conditions of the acts of Congress of the 3d March, 1807, and 3d March, 1811, on the subject of the commons adjacent to the city of New Orleans. 2d. The memorial or other proceedings of the common council, in relation to an application to Congress of the United States, for the property, use, or occupancy of a lot of ground, for the purpose of erecting a steam engine for conveying water into the city of New Orleans. 3d. The memorial or other proceedings of the said council, in relation to an application to the Congress of the United States for the demolition of Fort St. Charles, the granting of the ground on which it was situated to be appropriated as a public square. 4th. The memorial or other proceedings of the said common council, in relation to an application for the appropriation of so much of the lot of ground on which Fort St. Charles stood, as might be necessary for continuing Esplanade street to the Mississippi river, and for the privilege of selling a portion of said ground.

And afterwards, to wit, on the 17th day of January, 1831, the following entry was made on the minutes, to wit:

MONDAY, 17*th January*, 1831.

The court met pursuant to adjournment.
Present: Hon. Sam. H. Harper.

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Entry.

The UNITED STATES,
2179. *vs.*
The MAYOR, ALDERMEN, AND INHABITANTS OF NEW ORLEANS.

On this day came the parties, by their attorneys, and thereupon came the following special jury, summoned by the consent of parties, and in pursuance of the order of court in this case, of the 13th December last, to wit: François P. Labarre, John Holliday, C. M. Shepherd, B. Beauregard, George B. Milligan, Philip Hickey, John S. David, Minor Kenner and Wm. McQueen, who were drawn and sworn, well and truly to try the issue joined between the United States and the mayor, aldermen and inhabitants of New Orleans, when, after hearing the arguments in part, the further consideration thereof was postponed until to-morrow morning at 10 o'clock.

And afterwards, to wit, on the 18th day of January, 1831, the following entry was made on the minutes, to wit:

TUESDAY, 18*th January*, 1831.

The court met pursuant to adjournment.

Present: Hon. Samuel H. Harper.

The UNITED STATES,
2179. *vs.*
The MAYOR, ALDERMEN, AND INHABITANTS OF NEW ORLEANS,

This cause came on to be heard this day, before the same jury empannelled therein yesterday, when the trial proceeded, and, after some further progress in the cause, the further consideration thereof was postponed until to-morrow morning at 10 o'clock.

And afterwards, to wit, on the 19th day of January, 1831, the following entry was made on the minutes, to wit:

WEDNESDAY, *January* 19*th*, 1831.

The court met pursuant to adjournment.

Present: Hon. Samuel H. Harper.

Entry.

The UNITED STATES,
2179. *vs.*
The MAYOR, ALDERMEN, AND INHABITANTS OF NEW ORLEANS.

This cause came on again this day, before the same jury, originally empanneled therein, when, after same further progress in the cause, the further consideration thereof was postponed until to-morrow morning at 10 o'clock.

And afterwards, to wit, on the 20th day of January, 1831, the following entry was made on the minutes, to wit:

THURSDAY, 20*th January*, 1831.

The court met pursuant to adjournment.

Present: Hon. Samuel H. Harper.

Entry.

2179. The UNITED STATES, *vs.* The MAYOR, ALDERMEN, AND INHABITANTS OF NEW ORLEANS.

This cause came on again this day, before the same jury, originally empannelled therein, and who, after hearing the evidence and arguments of counsel, retired, under the charge of the court, to consider of their verdict; when, after some time, there being no prospect that they would soon agree, they were, by consent of parties, ordered to return a sealed verdict.

And afterwards, to wit, on the 21st day of January, 1831, the following order of court was entered on record, to wit:

FRIDAY, 21 *January*, 1831.

The court met pursuant to adjournment.

Present: Hon. Samuel H. Harper.

Entry.

2179. The UNITED STATES, *vs.* The MAYOR, &c. OF NEW ORLEANS.

The jury came into court this day, and stated that they were unable to agree upon a verdict in this case; whereupon, by consent of parties, they were discharged from the further consideration of the subject.

And afterwards, to wit, on the 18th day of June, 1831, the following decree was entered on record, to wit:

SATURDAY, 18*th June*, 1831.

The court met pursuant to adjournment.

Present: Hon. Samuel H. Harper.

Decree.

2179. The UNITED STATES, *vs.* The MAYOR, ALDERMEN, AND INHABITANTS OF NEW ORLEANS.

The trial by jury in this case having been waived, by consent of parties, this case was submitted to the court this day, upon the statement of facts prepared by the parties.

Whereupon, and, the court having considered the statement of facts agreed on in this case, is now of opinion, that the defendants have not exhibited sufficient evidence to support their title to the premises in dispute: It is

ordered, adjudged and decreed, that the injunction of the United States be made perpetual, and that defendants pay the costs of suit.

And afterwards, to wit, on the trial of the said cause, the following statement of facts, and documents, were introduced, and read in evidence on the part of the United States, to wit:

Statement of facts U. S.

UNITED STATES, *vs.* The MAYOR, ALDERMEN, AND INHABITANTS OF NEW ORLEANS.	*U. S. District Court Eastern District of La.*

Statement of the facts proved, and of the evidence offered, by the Plaintiffs.

1. The documents marked Nos. 1, 2, 3, 4 and 5, which are copies of proceedings in the claims of Arnaud Magnon, John T. Chesse, Catharine Gonzalez, and Pierre Urtubuise, before the commissioners appointed under the provisions of the act of 2d March, 1805, entitled "An act for ascertaining and adjusting the titles and claims to land within the territory of Orleans and the district of Louisiana," and of the act of 21st April, 1816, supplementary thereto. These claims referred to in these documents, have since been confirmed by the Congress of the United States.

2. Document No. 6. Grant of a lot to Francisco Lioteau.

3. On the ground situated between Custom-house, Levee, and Canal streets, and the public road, the United States, in the year 1819, erected a building, which is occupied by them as a custom-house, and in which the courts of the United States for the eastern district of Louisiana are now held; and they also caused the said ground to be enclosed with a fence. On the ground situated between Custom-house, Levee, and Bienville streets, and the public road, the Spanish Government had, previously to the year 1793, erected two buildings, one of which was occupied as a custom-house, the other as a tobacco warehouse: the custom-house existed at the period of the cession of Louisiana to the United States. On the space contained between Bienville, Levee, and Conti streets, and the high road, a large brick warehouse was built in 1818, and still exists on a portion of the lot of ground granted to Francis Lioteau, by the document marked No. 5. The mayor, aldermen and inhabitants of New Orleans have erected water-works and other buildings, which are rented by them to individuals, on the space contained between St. Philip and Ursuline streets, and Levee street, and the high road. Barracks were erected by the French Government before the year 1757, for the accommodation of the garrison of New Orleans, on the space contained between Hospital, Levee, Barrack and Condé streets; and on the ground in front of said barracks, to the high road and Levee, the troops were frequently exercised. These barracks existed, and were occupied by the French and Spanish Governments at the respective periods of the cession from Spain to France, and from France to the United States.

4. The act of Congress of 3d April, 1812, entitled "An act granting to the corporation of the city of New Orleans, the use and possession of a lot in said city."

The act of 3d March, 1822, entitled "An act supplemental to an act, entiled 'an act authorising the disposal of certain lots of the ground in the city of New Orleans and town of Mobile,'" were passed at the instance

and solicitation of the corporation of New Orleans; as was also that portion of the 2d section of the act of 20 April, 1818, entitled "An act authorising the disposal of certain lots of public ground in the city of New Orleans and the town of Mobile," which appropriates the lot of ground on which Fort St. Charles was erected, as a public square, and permits it to be improved for that purpose, by order of the corporation of New Orleans.

5. The document marked is a copy of the proceedings before the board of commissioners, hereinbefore referred to, on certain claims of the mayor, aldermen and inhabitants of New Orleans.

6. On the 22d February, 1770, Don Alexander O'Reilly, who was then the governor of the province of Louisiana, issued an ordinance; a copy of which is annexed, marked

7. The mayor, aldermen and inhabitants derive a large revenue from duties imposed on vessels and boats moored at the Levee, in front of the city of New Orleans. It amounted, during the year 1830, to $30,000. And a duty has always been collected by the municipal authorities of New Orleans, on vessels moored at the Levee, since the promulgation of the ordinance of O'Reilly, above referred to.

MAZUREAU,
MOREAU LISLET,
Attorneys for the Corporation.
JOHN SLIDELL,
Dist. Atty.

Documents annexed to statement of facts of U. S.

[*For plat, see page* 16, *original.*]

Survey.

Pursuant to an order from the surveyor of the lands of United States south of the State of Tennessee, and in conformity with a request of the claimant, I have surveyed, for Arnaud Magnon, a tract of land on the shore of the Mississippi, fronting to the city of New Orleans, bounded as follows: Beginning on the shore of the Mississippi from the point A, and running in the same direction with St. Philip's street, I have measured seventy feet to point B; from thence along the Levee ninety-three feet to C; from thence, crossing the Levee on a line perpendicular to the front of the city 79 feet to D; from thence, along the road on a line perpendicular to the road, 153 feet to E; from thence, on a line perpendicular to the front of the city, 90 feet to F; from thence along the Levee 33 feet to G; from thence, on a line perpendicular to the front of the city 65 feet to H, on the shore of the river; from thence, along the said shore of the river 276 feet—French feet measured—containing 33,100 square feet, or 1 arpent and 19 fathoms, and having such shape and marks, natural and artificial, as are represented in the above plat. The 9th day of July, 1807.

(Signed,) LAFOU,
Deputy Surveyor, O. C.

Petition.

To his Excellency the Governor and President of the Audience of Quito:

Arnold Magnon, master carpenter of this port, with due respect appears before your excellency, and says that, during the past year, 1792, he made,

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by order of your excellency, then Governor and Intendant General of these provinces, a barge for the use of the schooner Fine, (bound on a cruize,) to the satisfaction of the captain of this port, and which was estimated by him at $350; that not wishing money for it, but a portion of land, of about 18 to 19 feet, on one side of his house, in order to enlarge it, the small being very small, your excellency granted it to him; and he not having any document whatever whereby to prove this favor of your excellency at a future period; and, in consideration of your approaching departure, solicits your excellency to be pleased to order that some guarantee may be furnished him for the possession of said lot, or some instrument by which he may at any time, prove the aforesaid claim in the absence of your excellency, if he should be under the necessity, the right which he has to the said lot, from the favor he received from your excellency, inasmuch as there is nothing extant in the office of the principal treasury of the army, and royal intendancy; a favor which this petitioner hopes to obtain from the justice of your excellency.

ARNAUD MAGNON.

NEW ORLEANS, *August* 31, 1797.

Decree.

To his Excellency the Intendant General:

Arnoldo Magnon, master carpenter in this river, with all due respect, represents to your excellency, that his dwelling-house having been included in the conflagration of 1788, the Governor, at that time, Brigadier Don Estevan Miro, had the goodness to permit him to construct a small house near this river, on the inner side of its dyke, joining, on the back part, that of the widow of Don Santiago Beauregard; the aforesaid officer being induced to do so, from the necessity to which de't was reduced, who, confiding that the misfortune would not reach him, from the long distance at which he lived, went to give assistance to the neighbors nearest to the place where the fire commenced; which misfortune reduced him to the greatest indigence.

In consequence of this, he suffered the greatest inconvenience and distress from the scarcity of lodgings, until the Baron de Carondelet was informed of it; and in compensation of a barge which he presented to his Majesty for his use of the schooner Fine, granted to him, as it is proved by his attestation hereunto annexed, a small portion of land, of 18 to 19 feet, adjoining his said house, with which he was able to give it a tolerable breadth; and it is now composed of 60 feet front and 50 deep, including, within these dimensions the yard, together with some small buildings for his use.

The construction of galleys and their repairs, and those of other vessels of the King, increased in such a manner, that the deponent saw himself obliged to petition the aforesaid Baron to allow him to build a shed, which might protect his workmen from the sun and rain, in order that the exposure might not be a motive to retard the works of the King, which have been generally hurried. In consequence of the justness of the petition, it was granted him; and it now consists of 70 feet in length and 23 feet in breadth, upon the same line with his house, and at the distance of 14 or 15 feet from it, with great advantage to the Royal Intendancy, since he deposits there all the articles which he receives from the King's stores for careening outfits, and whatever else may be needful.

The petitioner, continuing to give proofs of his patriotism, has just delivered into the treasury the donation which he made to the King, of $415\frac{50}{100}$, at which was estimated the work done and materials employed in careening the gun-lighter Succour, which cruizes upon the lakes. Moreover, in all the contracts, as well for the building of new vessels as for the repairs which have been necessary, he has manifested his good will by doing them as reasonably as it was possible, and to the satisfaction of the persons appointed to examine them, supplying and advancing, upon many occasions, from his own funds, the days' labor of his workmen, in consequence of the want of means in the Treasury.

By virtue of all which, and of the infinite other services rendered to his Majesty and to the public, the deponent recurs to the known justice of your excellency, and prays that, in consideration of all that he has set forth, you may be pleased to grant him the title to the lot whereon the above mentioned buildings are erected, and also that of the small space between them, with the corresponding title deeds in form; for which favor, which he expects from the goodness of your excellency, he will be grateful.

ARNAUD MAGNON.

NEW ORLEANS, *August* 21, 1799.

Decree.

This document being presented, I transmit it to the attorney general—[here are two flourishes.] This decree was given by Don Juan Ventura Morales, principal treasurer of the army, and intendant ad-interim of the royal treasury of this province of Louisiana, for his Majesty, who affixed his flourishes after the opinion of the counsellor general of the intendancy of New Orleans, on the 22d of August, 1799.

(Signed) CARLOS XIMENEZ.

Notification.

On the same day, I notified Don Arnoldo Magnon of the preceding decree, which I do hereby certify.

XIMENEZ.

Another.

On the 29th of the said month, I communicated the foregoing transmission to the attorney general of the royal treasury, which I certify.

XIMENEZ.

Opinion.

The attorney general of the royal treasury, informed of the petition of Arnoldo Magnon, master ship-carpenter, in this city, soliciting the title of a lot upon which, by permission of the General Government of this province, he has erected several buildings indispensable to the ship-yard, which, for the service of the King and of the public, he established upon the spot alluded to, he says: That, whereas the services of Magnon are well known, and that he, under the good faith of the promise made to him by the Baron de Carondelet, who was then Governor General and intendant of this province, has made the buildings above mentioned; and that they are so neces-

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sary and useful to the service of the King and of the public, as the said chief attests in his decree of the 31st of August, one thousand seven hundred and ninety-seven: It appears to the attorney general, that it would be an injustice to refuse him the corresponding titles of property that he solicits; for, although the council of this city might have some objection, on account of the said lot being situated within its precincts, this opposition may be easily overcome, by the certainty that, if Magnon did not occupy the said lot, it would be necessary that another should occupy it, owing to the necessity and usefulness of said ship yard to the public. Therefore, the attorney general is of opinion, that the title of property which he claims be furnished him in due form, as it appears to him conformable to equity and justice, which he prays.

GILBERTO LEONARD.

NEW ORLEANS, *August* 28, 1799.

Evidence.

We, the undersigned, inhabitants of the county of Orleans, residing in this city, do certify by these presents, to have seen Mr. Arnaud Magnon in peaceable possession of a lot of ground which he has occupied since the time of the last conflagration which took place in this capital, in the year 1788; which land is situated on the Levee of this above mentioned city, fronting to the river, adjoining, on one side, that of Mr. Henry Mentzinger, and bounded on the back part by the public road.

In testimony whereof, we have delivered to him the present certificate, to serve and validate, as right and need shall require.

(Signed) ROBERT DOW,
DANIEL CLARKE, and
FRANCISCO DE RIANO.

NEW ORLEANS, this 17*th July*, 1807.

Decision.—No. 312.

Arnaud Magnon claims a lot of ground situated in the city of New Orleans, on the front side of the same, containing 1 arpent and 19 toises in superfices, and bounded on the east side by the river Mississippi, on the south by the property of Henry Mentzinger, on the west by the main road, and on the north by vacant land.

The board confirm so much of this claim as is embraced by the red lines on the plat of survey: it appearing that the Baron de Carondelet did, in the year 1797, according to the claimant's petition, decree to him that part of the ground described in the red lines, and that the claimant, in the year 1799, presented a petition to the intendant to grant him the remainder, which was referred to the officer of the fiscal department for his opinion, and was by him approved, and the country having been ceded to France before this opinion was communicated to the intendant, no complete title issued; but, we are of opinion that, according to the usages and customs of the Spanish Government, a complete title would have issued had an application afterwards been made to the intendant.

(N. B. The lot of ground embraced by the red lines, marked in the plat referred to, has a front of 115 French feet, and one part of that, viz. 66 feet, has a depth of the upper line, 62 feet, and the lower, 66 feet: the re-

maining part of the front, viz. 89 feet, has a depth of 33 feet; the whole containing a superficies of 7,765 French feet.) It appears that the claimant occupied and possessed the balance of the ground claimed for more than 12 consecutive years, prior to the 20th December, 1803, viz: a small slip enclosed as a yard, in the rear of his dwelling, and the remainder as a ship yard; and erected work houses on it, which yet exist, and which he still occupies. This was done with the knowledge and permission of the Spanish Government. We know of no law or usage of that Government respecting claims similarly situated: but think it highly probable, that, had the claimant applied, he would have obtained a grant for it, as a grant was made to a lot of ground adjoining him, under no higher pretensions. Nor does this appear to come within any of the provisions of the laws of the U. S. Although there have been ten consecutive years' possession, the land has not been inhabited or cultivated.

This part of the claim, we do not feel ourselves authorized to decide on, but are of opinion, that, in justice, the claim ought to be confirmed.

LAND OFFICE, *New Orleans.*

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing plat, certificate of survey, petitions, decrees, evidence, &c. as well as the foregoing decision (No. 312) of the board of commissioners on the claim of Arnaud Magnon, to be true copies, as taken from records now in my possession.

In faith whereof, I hereunto subscribe my name at NewOrleans, this 16th day of December, 1830.

HILARY B. CENAS,
Register of the Land Office.

Claim of John T. Chesse.

[*For plat, see page 24, original.*]

Survey.

Pursuant to an order from the surveyor of the lands of the United States south of the State of Tennessee, and in conformity with a request of the claimant, I have surveyed for T. Chessy, a tract of land situated on the river Mississippi, bounded as follows: Beginning, to the point A on the Levee, and in the same direction of St. Philip's street, I have measured along the Levee, 46 feet to B: from thence, on a line perpendicular with front of the city, 65 feet, to the shore of the river C: from thence, along the shore of the river, 46 feet to D: from thence, on a line parallel with the second line B, C. 65 feet to A., all French measure, containing 2,290 feet; and having such shape, form, and figures, or marks, natural and artificial, as are represented in the above plat. The 24th day of July, 1807.

(Signed) LAFON,
Deputy Surveyor, Orleans County.

Petition.

Most illustrious Alcades:

I, Estevan Plauché, residing in this city, before your honors do appear and declare, that, being by trade a carpenter and caulker, and having much

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work, which I cannot do in my yard, I recur to the justice of your honors, in order that, according to the merit of my representation, you may be pleased to grant me permission to build in front of my house, which is facing to the wharf of this city, a shed for the above mentioned purpose, which is not to be closed, on either side, that it may not obtrude the view; a favor which he humbly hopes to obtain, from the strict justice which your honors administer.

ETIENNE PLAUCHE.

NEW ORLEANS, *May* 2, 1783.

Grant.

NEW ORLEANS, *May* 23, 1783.

Permission is granted to this petitioner, as he solicits, to construct a shed, under the precise condition that he locate it on the outside of the Levee, and that its existence shall continue until such time as this illustrious Alcalde shall determine otherwise.

F. J. LA BRETON.

Before me: FERNANDO RODREGUEZ,
Notary Public and Cabildo.

Transfer.

I hereby declare to have ceded and abandoned, in favor of Mr. John T. Chisse, my son in-law, all the rights and pretensions which I had upon a certain piece of land situated outside the Levee of this city, and upon which I had a workshop erected by virtue of the above permission; which was granted to me by the Spanish authorities, in the year 1788. In testimony whereof, I have signed these presents, in New Orleans, this 4th January, 1788.

(Signed) E. T. PLAUCHE.

Evidence.

We, the undersigned, inhabitants of New Orleans, do certify that the lot upon which Mr. John J. Chissy has his workshop situated, in front of this city, between the Levee of the same and the Mississippi, has been occupied by him for 18 successive years to this day; and that we never have known him to be disturbed, either by the Government or any individual whatever, in the peaceable possession of said land. In testimony whereof, and at the requisition of the said Jean J. Chissy, we have delivered to him the present certificate, to serve and validate as need may require.

(Signed) GAYURRE S. PETIT, and
S. MARCHAND.

NEW ORLEANS, 30*th October*, 1807.

Decision. No. 372.

John T. Chisse claims a lot of ground situate in the city of New Orleans, between the Levee and the river, containing 2290 feet, in superficies, and bounded on the N. E. by the continuation of St. Philip st.

It appears, that one Etienne Plauche, (the father-in-law of the claimant,) petitioned the cabildo, of which the Governor was the president, in May, 1783, for, and obtained permission to, erect a shed on the lot of ground

claimed, for the purpose of repairing vessels; and continued to occupy it until the year 1788, when he sold it to the present claimant, who has continued to possess and occupy it since that time to the present period. for the purpose aforesaid. We know of no law or usage of the Spanish Government, respecting claims similarly situated; and it does not appear to come within any of the provisions of the laws of Congress, it being a small lot which has never been cultivated or intended for cultivation. But the claimant had his dwelling-house on it, and did actually inhabit it, on the 20th December, 1803, and for more than ten consecutive years next preceding. This lot of ground was considered of little value at the time it was taken possession of; and we have no doubt that the Government would have granted it to the claimant had he have asked it, as grants were made to lots near to this, under similar circumstances, to other individuals.

We do not feel authorized to make any decision on this claim; but we think it would more an act of justice than of generosity if the Government should confirm it.

LAND OFFICE, *New Orleans.*

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing plat, certificate of survey, petition, grant, transfer, and evidence, as well as the foregoing decision (No. 372) of the board of commissioners on the claim of John T. Chesse, to be true copies as taken from the records now in my possession.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 16th day of December, 1830.

HILARY B. CENAS,
Register of the Land Office.

Claim of Catharine Gonzalez.

[*For plat, see original, page* 27.]

Survey.

NEW ORLEANS, 1*st September*, 1807.

I, the undersigned Bartholomy Lafon, surveyor, deputed by Isaac Briggs, surveyor general of the south of Tennessee, do hereby certify that I went, at the requisition of Madame Widow Bertrand, residing in this city, to a piece of land situated within the said district, to measure the extent of it; to fix the bounds, or to renew them, if there was need; to establish the lines between adjacent neighbors, &c. being upon the spot, I required of her to produce to me the vouchers which authorized her to have this done, and she presented to me the following: 1st. An authorization, under date the 28th March, 1788, by which Mr. Miro, former Governor of this province, grants her permission to establish herself upon the said land. 2d. An authorization dated 16th June, 1794, whereby Mr. De Carondelet, Governor, grants her permission to repair the buildings situated upon the said lot of ground. Then, in the presence of the adjacent neighbors, Domingo Gonzalez and Peter Survin, as witnesses, I proceeded to measure the said land. I repaired to the point A, and there taking a direction perpendicular with the Levee, I opened and bounded the line adjacent to Domingo Gonzalez, and measuring from the point A two toises, (62 feet,) I fixed the limit B;

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from this point, measuring 3 toises,(18 feet,) over a lot covered with fences, I fixed another stake. I continued to measure to the point E, when I stopped to measure, being at 20 feet further upon the street, all this line, having in depth from the side walk (banquette) 8 toises and 5 feet: returning to the point A. I raised upon a line running parallel with the Levee, and I measured upon the punctulated line a quarter of an arpent $5\frac{5}{6}$ toises, forming the front of said habitation, or 80 feet French measure; having reached the point M, I directed my graphometer to the perpendicular of the Levee, and measuring 2 toises, I drove a stake at N; from this point, measuring 3 toises, I drove another stake at O; measuring 2 toises and $\frac{2}{3}$ more, I stopped my measures, the line having in length $\frac{1}{4}$ of an arpent and $\frac{1}{5}$ of a toise, or 46 feet; from the point P, following the road, I measured 79 feet 6 inches, from P to F, where I terminated my measures. So that there results in favor of Catharine Gonzales, Widow Bertrand, a lot of ground bounded on the N. E. by Domingo Gonzales, on S. E. by the Levee, on the S. W. by vacant lands, and on the N. W. by the public road; having a superfices of 3176 feet 4 inches. In testimony whereof, I have given the present plan and report.

LAFON.

Petition.

Your excellency, Antonio Baltran, a resident of this city, with the most profound respect, doth declare and say: That, whereas his house, which he inhabited on the 21st instant, has been burnt, and he finds himself without a shelter, he has determined to erect a small house in front of that belonging to Mr. Bienvenu; wherefore he most humbly pray your excellency to grant him permission for it; a favor which he hopes to obtain from your excellency.

NEW ORLEANS, 17*th March*, 1788.

Decree.

This petition is granted.
Signed MIRO.

Petition.

To his Excellency the Governor General:

Thomas Bertrand, shop-keeper in this city, submits to your excellency, with the most profound respect, that 3 months since, he presented your excellency a memorial for permission to build a hut or small house, which he has contiguous to the Levee, and in front of the house of the Auditor of War; on account of the timbers of said hut being rotten by the great continuations of rain, which tends to ruin the little clothing he has, as also that of his children. In consideration of this, and of the sinking condition of the roof, he humbly prays your excellency to be pleased, through an effort of your well known beneficence, to grant him permission for the rebuilding of said house as he is exposed to some accident from the present state of the timbers; which favor he hopes to receive from the great benignity of your excellency, whose important life he prays God to preserve many years.

Signed THOMAS BERTRAN.

NEW ORLEANS, 17*th June*, 1794.

Decree.

NEW ORLEANS, 16*th June*, 1794.

Granted, upon condition that the same dimensions be observed, as those of the house now standing.

BARON DE CARONDELET.

Evidence.

We, the undersigned, inhabitants of the county of Orleans, residing in the city of New Orleans, do certify by these presents, that it is within our knowledge that Madam Widow Bertrand, (now the wife of Domingo Gonzalez,) and her deceased husband, have peaceably enjoyed, with the permission of the Spanish Government, and possessed without any interruption whatever, during the space of ten years and more, before the cession of this colony to the French Republic, a lot of ground upon which they have dwelled from the time of the first conflagration, which happened in this capital in the year 1788; which lot is situated in front of this city, fronting the river opposite to the house occupied by Mr. Tremolet, joining on one side the property of Domingo Gonzalez, on the other some vacant lands in front of the Levee, and on the back part the public road. In testimony whereof, at the request of the above-mentioned lady, we have delivered the present, and validate as need require.

Signed HENRY MENTZINGER.
ARNAUD MAGNON.
JN. PINARD.

NEW ORLEANS, *this* 12*th September*, 1807.

Decision.—No. 329.

Catharine Gonzalez, widow Bertrand, claims a lot of ground situate in the city of New Orleans, fronting on the Levee, and containing a superficies of 3176 feet and 4 inches, in a square form, and bounded on the N. E. by the property of Domingo Gonzalez, on the N. W. by the main road, on the S. W. by vacant land, and on the S. E. by the Levee aforesaid. It appears that, on the 17th March, 1788, a few days after the fire which consumed a considerable portion of this city, Thomas Bertrand, the late husband of the claimant, and who was a sufferer by the fire, petitioned Gover. Miro for leave to build himself a house in the lot of ground now claimed, which was accorded to him by the Government. It appears, also, that, in the year 1794, he presented another petition to the Baron de Carondelet, to re-construct his house, as the materials of which it was built, were much decayed; which request was also accorded, upon condition that the house should be re-constructed according to its former dimensions. This lot of ground has been inhabited by the late husband of the claimant, from the year 1788 until his death, and by the claimant since that period to this day. As we do not feel authorized to make any decision on this claim, we think it would be more an act of justice than of generosity, if the Government should confirm it.

LAND OFFICE, *New Orleans.*

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing plat, certificate of survey, petitions, decrees, and evidence, as well as the foregoing decision (No. 329)

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of the board of commissioners on the claim of Catharine Gonzalez, widow Bertrand, to be true copies as taken from the records now in my possession.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 16th day of December, 1830.

HILARY B. CENAS,
Register of the Land Office.

[*For plat, see original, page* 32.]

Survey.

Pursuant to an order from the surveyor of the lands south of Tennessee, and in conformity with a request of the claimant, I have surveyed for Mr. Urtubuise, blacksmith, a tract of land on the Levee, bounded as follows: Beginning on the corner A, and running in the direction of the Levee, I have measured 35 feet, and planted a stake; from there, on a line perpendicular to the Levee, I measured 54 feet; from thence in a direction parallel with the public road, and measuring from the point C, I measured 47 feet to the point D; from thence, in the same direction with St. Philip's street, and running towards the river, I measured 53 feet to the point of departure A, containing 2175 feet in surface, and having such shape, form, and marks, natural and artificial, as are represented in the above plat. The twenty-first day of June, 1808.

Signed LAFON, *Deputy Surveyor.*

Evidence.

We, inhabitants of New Orleans, whose name are underwritten, do certify that we saw Mr. Peter Urtubuise settled upon a lot of ground situated in front of this city, and on a line with St. Philip's street, which lot is fronting the Levee, adjoining on one side to the property of Mr. Henry Mentzinger, and on the back part by the public road; upon which lot of ground he has his house and forge; the peaceable and uninterrupted enjoyment of which he has had up to this day, and since Baron de Carondelet's administration of this province; which we testify to, as being to our perfect knowledge. In proof of which, we deliver to him, as his request, these presents, to be used and to have their just weight, upon proper occasion: at New Orleans, this 19th June, 1808.

Signed PROSPIRE PRIEUR.
JOSEPH CHEGEON.
B. WILTZ.

Decision.—No. 380.

Peter Urtubuise claims a lot of ground situate in the city of New Orleans, fronting on the Levee, containing a superficies of 2175 feet, and bounded on one side by St. Philip's street, and in the rear by the main road.

The claimant states, that one Peter Brean, of whom he purchased, in the year 1790, obtained a written permission from the Governor to build and settle himself on the lot of ground now claimed; which written permission was destroyed by fire in the year 1794: of this we have no evidence. It appears that the claimant has his dwelling-house and blacksmith's shop

on the lot, and has had the quiet possession of it for two years prior to the 20th of December, 1803, and still has. We know of no law or usage of the Spanish Government, respecting claims similarly situated; and it does not appear to come within any of the provisions of the laws of Congress, it being a small lot which has never been cultivated, nor intended for cultivation. The lot of ground was considered of little value at the time it was taken possession of; and we have no doubt but that the Governor would have granted it to the claimant had he have asked it, as grants were made to lots near to this, under similar circumstances, to other individuals. We do not feel ourselves authorized to make any decision on this claim; but we think it would be more an act of justice than of generosity if the Government should confirm it.

LAND OFFICE, *New Orleans.*

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing plat, certificate of survey and evidence, as well as the foregoing decision (No. 380) of the board of commissioners, on the claim of Peter Urtubuise, to be true copies as taken from the records now in my possession.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 16th day of December, 1830.

HILARY B. CENAS,
Register of the Land Office.

[*For plat, see original, page* 35.]

Survey.

Don Carlos Trudeau, royal and private surveyor for the province of Louisiana, &c. In compliance with a decree of the General Government, dated the 26th of March, of the present year, I certify having measured and set the limits in favor of Don Henrique Mentzinger, to a lot of 82 toises and twelve feet superficie, measured by the perch of the city of Paris, containing eighteen feet long, in conformity with usage and custom of this colony; which lot is situated in this city of New Orleans, fronting the Levee, bounded on one side by a lot occupied by the carpenter Magnon, and on the other side by another lot occupied by a blacksmith, &c. The aforesaid lot forming a regular trapezoid, the front being 53 feet towards the Levee, although there are but 52 feet in breadth, the common limit with Magnon 58 feet, and the limit of the blacksmith 56. In testimony whereof, I give the present certificate, with the figurative plan annexed. August, 1795.

CARLOS TRUDEAU, *Surveyor.*

Patent.

Don Francisco Luis Hector, Baron de Carondelet, knight of the *religion* of St. John, brigadier of the royal armies, Governor General, vice patron of the provinces of Louisiana, West Florida, and inspector of the troops thereof, &c.

Whereas, for the good of the public and the greater increase of the population of this city, I have thought proper to take various measures to survey

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and grant the vacant lots situated on the royal lands in this city. Therefore, in consequence of the preceding report, made by the surveyor of this province, Don Carlos Trudeau, concerning the possession which he has given to Don Henrique Mentzinger, of a lot of 82 toises and 12 feet superficie, situated in this city fronting the Levee, adjacent on one side to a lot occupied by the carpenter Magnon, and on the other by a lot occupied by a blacksmith, as is shown upon the figurative plan which precedes, and recognizing it to be conformable to the order of survey, as is proved by the foregoing report. Approving it as we do, making use of the power granted us by the King, we grant, in his royal name, to the aforesaid Don Henrique Mentzinger, the said lot composed, as has been before stated, of 82 toises and 12 square feet superficie, in order that he may dispose of it and enjoy it, regulating himself by the said report; and observing, with exactness, the usages and customs observed by other citizens of this city, with regard to the good condition of the side walks and ditches of their respective lots, we grant these presents. Signed with our hand, and sealed with our arms, being countersigned by the undersigned secretary of his Majesty for this Government, in the city of New Orleans, 10th August, 1795.

BARON DE CARONDELET.

By order of his Excellency:

ANDRES LOPEZ ARMESTO.

Decision.—No. 369.

Henry Mentzinger claims a lot of ground situate in the city of New Orleans, fronting the Levee, containing 53 feet in front; the upper line adjoining lands of Artubuise, measures 56 feet in depth; the lower line adjoining lands of Arnaud Magnon, measures 58 feet.

It appears that the claimant obtained from the Spanish Government a complete title to the aforesaid lot of ground, dated the 10th day of August, 1795.

Confirmed.

LAND OFFICE, *New Orleans.*

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing plat and certificate of survey and patent, as well as the foregoing decision (No. 369,) of the board of commissioners, on the claim of Mr. Henrique Mentzinger, to be true copies, as taken from the records now in my possession.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 16th day of December, 1830.

HILARY B. CENAS,
Register of the Land Office.

Patent.

Don Francisco, Baron de Carondolet, knight of the order of St. John, colonel of the royal armies, Governor Intendant, vice royal patron of the provinces of Louisiana and West Florida, and inspector of the veteran troops and militia thereof.

Whereas, for the benefit of the public, and for the greater increase of the population of this city, I have thought proper to make divers arrangements

to measure and grant the vacant lots situated among the royal lands of this city: therefore, in consequence of the foregoing report, which, conformably to a special order of mine, has been made by the surveyor of this province, Don Carlos Laveau Trudeau, concerning the possession which he has given to Don Francisco Liotaud, a citizen of said province, and of one situated and forming the corner of Bienville street, and the new one, Reducto Sn. Luis, composed of one hundred and eight feet front, upon the first, and sixty feet upon the second, bordering on the front with the high road, according to the line A B, and to the line A C, with a vacant lot, as is shown upon the figurative plan, which precedes, and recognizing it to be conformable to the order of survey, as is proved by said report, approving as we do: making use of the power which the king has vested in us, we grant, in his royal name, to the abovementioned Francisco Liotau, the lot referred to, that, as his own, he may dispose of it and enjoy it—conforming himself to the foregoing report, and observing, with exactness, the usages and customs observed by other citizens of this city, with respect to the good condition of the side-walks and gutters of their respective lots. We grant these presents, signed with our hand, and sealed with our arms, being countersigned by the undersigned secretary for his majesty, of this government and intendancy, in the city of New Orleans, 14th June, 1792.

LAND OFFICE, *New Orleans.*

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing to be a true copy, taken from the records now in my possession, of the patented concessions made by the Spanish Government, of lands situated within the late province of Louisiana. Book No. 2. page, 18.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 16th December, 1830.

HILARY B. CENAS,
Register of the Land Office.

Claim of Mayor, Aldermen, and Inhabitants of New Orleans, &c.

To the honorable the Register and Commissioners of the Eastern Land District of the Territory of Orleans:

The mayor, aldermen and inhabitants of the city of New Orleans, by Peter Derbigny and Lewis Kerr, their attorneys in this behalf, duly constituted and appointed under the corporate seal of the said city, as more fully appears by a certified copy of their letter of attorney hereunto exhibited (marked No. 1,) and offered, for the purpose of being recorded at the office of the said commissioners, in the said city, this 20th day of October, in the year 1806—represent and give notice, that when the said city was first established, during the dominion of France in this country, a large tract of and, in the vicinity of said city, to wit: a tract bounded on the north and east by lands granted to individuals at the settlement at the Bayou St. John; other lands granted to individuals on the road leading from said city to the said settlement; and other lands of Marigny, at the lower end of said city: on the west, by the Bayou St. John; and on the south, by certain lands formerly granted to the Jesuits; which tract is designated on the plat herewith exhibited (marked No. 2,) and offered for the purpose of being recorded, by

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the red lines L, T, O, P, Q, B, A, R, S, was demised and granted to the inhabitants of the said city, to be by them had and used as a common forever: That, by reason of the great distractions which prevailed in this country at the time of the cession thereof to Spain, the frequest destruction of said city by fire since that time, when many of the public records were lost, and the numberless other casualties to which written evidences of titles of so old a date were liable, the same with regard to the aforesaid title of the said inhabitants of the said city, to the possession and use of the said common as aforesaid, or any direct testimony relating to the same, although diligently searched for, has not been found.

But as the said inhabitants have, at all times since the establishment of the said city, been in the undisturbed possession of the said land as a common as aforesaid, by and with the permission, and under the authority of the proper French and Spanish officers, from time to time, without interruption, or question of their rights aforesaid, and they have cleared, reclaimed, and improved the same throughout, as far as the nature of the same would admit of, there arises a just and legal presumption of their original title to the premises; and by the right of prescription have become, and are lawfully and justly entitled to continue to hold, use, and enjoy the same as aforesaid, in conformity with the laws, usages and customs of the Spanish Government and of the country; all of which is matter of public notoriety. But for greater certainty in this behalf, a certified extract from the records of the Spanish colonial Government here, (marked No. 3,) and a translation thereof in the English language, (marked No. 4;) and also a public despatch of the King of Spain, (marked No. 5,) and a translation thereof in the English language, (marked No. 6,) are herewith exhibited and offered for the purpose of being recorded; by which document it does fully appear that the aforesaid right, title, and claim of the said inhabitants, have been, from time to time, recognized, acknowledged, ratified and confirmed, by the proper authorities in that behalf.

It is therefore prayed, that your honorable board may make inquiry into the validity of the said claim, and, for that purpose, examine such witnesses and other testimony as may be necessary in that behalf, to the end that you may decide and certify that the said claim is valid, according to the form of the statutes in that case provided.

(Signed,) P. DERBIGNY,
L. S. KERR.

Document No. 1.

Aujourd'hui sept du mois d'Octobre de l'an 1806, & la 31eme de l' independence Americaine, pardevant moi Pierre Pediscaux, notaire public des Etats Unis de l'Amerique, á la Nouvelle Orleans, est comparee Mr. John Watkins, marie de cette commune, lequel par ces presens declare en sa qualité donner pouvoir á MM. Pierre Derbigny & Louis Kerr, avocats, de pour & au nom de la commune faire & au mains des commissaires des terres, la reclamations de celles appartenantes á la dite commune, pour raison de ce faire, touts reclamations oppositions & demandes, á ce necessaire en justice ou autrement ainsi & comme le jugeront necessaires les dits Sieurs, constitués; ratefiant des á present.

Vaudront les presentes jusqu á revocation: Car ainsi, &c. Fait & passé en l'etude, &c. La minute des presentes est signée John Watkins, Jean B^{te} Ra-

mirez, Joachin Lozana. Temoins: Pierre Pedisclaux, notaire susdit & soussigne, qui a delivré la presente copie.

PIERRE PEDISCLAUX. [L. S.]

Document No. 4, annexed to the above claim.

Extract from the Register of the deliberations of the Cabildo, (State Council) 15th July, 1796.

There was read a representation made by the attorney general, setting forth—That there were continued complaints of the inhabitants of this city, saying, that the inhabitants bordering upon the commons of this city prevent them from cutting wood on the said commons, under the pretence that the same belonged to them, the inhabitants bordering upon the commons; and and if it were so, the city would lose all their commons, or the greatest part thereof, and that nobody was invested with sufficient powers to grant away the same; that, in case there should have been some grants made since this province came under the dominion of our august King, they were to be considered void and of no effect, and all the portion which have been so granted against law, ought to be united to the commons aforesaid. The said attorney general said he was of opinion, that a general survey and a demarcation of all the lands belonging to the community should be made according to the plan which shows the situation of the inhabitants on the border; that they shall be compelled to show their titles; and that those that shall be unable to show lawful titles, be dispossessed: and that a petition be presented to his excellency the Governor to that effect, praying that his excellency may be pleased to issue his orders thereon.

And the members of the said Cabildo, after having heard the contents of this representation, granted the prayer of the attorney general; and resolved, that, after having previously given a certificate of their assent to the said representation, the same be transmitted to the Governor and President; that his excellency be requested to order that the object of the said prayer be carried into effect. Signed in the original,

The BARON DE CORONDELET.
MANUEL PEREZ.
CARLOS DE LACHAISE.
ANDRES ALMONUTRO Y ROXAS.
G. FOUVERGNE.
FRANCIS PASCALIS DE LABARRE.
NAS. FORSTALL.
RE. J. DUCROS.

Before me, PETER PEDESCLAUX,
Clerk of the Cabildo.

I certify that the present extract is conformable to the original on file in the archives of the city.

NEW ORLEANS, *September 9th*, 1806.
(Signed,) BOUGEOIS

I certify that the present translation has been well and truly made, to the best of my ability.

NEW ORLEANS, *Sept'r 14th*, 1806.

L. MOREL,
Translator to the Sup. C.

Document No. 6. 174.

The King to the Governor, Civil and Military, of the Province of Louisiana, in the city of New Orleans.

I thought proper to forward to your predecessor, on the 21st day of December, 1797, a royal letter patent of the following tenor, viz: "The King to the Governor, civil and military, of the province of Louisiana, residing in the city of New Orleans: In a memorial dated the 13th of March, in the last year, your predecessor, the Baron de Carondelet, informed us that the frequent and almost unavoidable robberies which are committed in that capital, (where vagrants of all nations abound, because the country, being open on all sides, the trade which is carried on with the Americans of the western countries down the Ohio to the Mississippi, and with the several European nations, draws many sailors and other foreigners there,) obliged him to propose to the Cabildo to establish town lamps, in imitation of those at the Havana and the capitals of the provinces of these Kingdoms, where they are less required than in New Orleans."

"That the population, not amounting to 6,000 souls, it was necessary to seek less expensive means, and such that all the inhabitants should contribute according to their means towards the expenses of the town lamps and of the watchmen; and that, it having appeared to the Cabildo that an annual tax of nine reals for each chimney would answer the purpose, as it was to be paid by the tenants or city inhabitants, the partition of the $3,897 and four reals, which were the amount of the annual keeping of 13 watchmen and 80 lanthorns, was made accordingly: and the sum of $21 78, to which the price of the lamps amounted, and all that was necessary for supporting the town lamps according to the conditions specified in the agreement annexed to the memorial, were taken out of the funds of the city. That this establishment was immediately felt to be useful, and attended with great success, the robberies having been discontinued since that time; but that one part of the city having been unfortunately reduced to ashes by the great fire of 1794, it was questioned whether the town lamps and watchmen should be suppressed, on account of the augmentation of expenses and the diminution of the persons contributing, caused by the diminution of houses: however, the circumstances of the war, the necessity of continually watching over a city composed for the most part of French, and of preventing the nocturnal meetings either of them or of the slaves, induced the continuance of that useful establishment on the same footing; and your predecessor was fortunate enough to find that both the Cabildo and inhabitants approved of the augmentation which he proposed of three reals per chimney, which made a total of twelve reals per chimney to be paid, whilst the principal part of the city should be rebuilding; and when the burnt houses should be rebuilt and re-established as they were previous to the fire, the tax was to be reduced to the original sum of nine reals, and even to less when the number of houses should augment; that, if I should be pleased to approve that the 300 *toises* of the commons adjacent to the city, near its fortifications, which then produced nothing, because they were overflowed during six months in the year at least, should be divided into small lots, not exceeding sixty toises in front, and one hundred and fifty in depth, and granted to the inhabitants who should offer themselves to cultivate them, provided that they would pay a small annual rent to the public treasury for the support of the town lamps, it being manifest"—

"1st. That, in a few years, the whole circumference of the city would be raised above the level of the waters, which would be drained by the owners of the lots digging ditches to carry off the water to the canal, which was nearly finished."

"2dly. That the many putrid, tertian and quartern fevers caused by the corruption of the stagnant waters and by pools in the month of July, August and September, attended with many deaths, would be expelled from the city."

"3dly. That many poor, who had no means of subsistence, would devote themselves to cultivating of garden vegetables, the abundance of which is very important in a hot and damp country; which is consequently exposed to scurvy."

"4thly. That the product of the same gardens would augment the funds of the city, which scarcely amounted to $7,000 a year, and would not be sufficient to meet their expenses, if I should not permit these last mentioned funds to be applied to the reduction of the contribution of the town lamps. That, as many evident advantages were more than sufficient to unite all the votes in favor of the use which was proposed to be made of that part of the lands adjacent to the capital; however, when he consulted the inhabitants, he found the greatest part of them inclined to leave things on the footing on which they were; but he knew that this proceeded from the particular interest of those who, having plantations near the city or gardens in the city, feared that the abundance of garden vegetables would reduce the price of them, which they always kept up at the same rate, and so high that the poor could not enjoy an aliment so necessary to their health; and this is the very reason which induced my royal mind to order that the aforesaid 300 *toises* of lands adjacent to the city, situated contiguously to it, should be divided into small lots, which should be sold by public auction for ten years, each lot to the highest bidder; provided that every tenant should oblige himself to cultivate it and make a garden of it. Your predecessor hoping that, in consideration of the public good and of humanity, I would be pleased to order that a decree be issued, that the same be executed, and also to approve and give my royal approbation to the expenses which had been incurred for the establishment of town lamps, and watchmen, and to the contribution before mentioned: after having taken the same into consideration in my council of the Indies, and taken advice from the royal treasury, in consequence of what was represented to me by my fiscal, after due deliberation thereon, on the 20th of December of the last year, I resolved to approve the establishment of the town lamps and watchmen, as also the expenses incurred for the purchase of the 80 lanthorns, with what was necessary for the support of the same, which may be charged, as they have been, to the city funds, on account of the extreme poverty in which the inhabitants now are. And the contributions for the town lamps and watchmen shall be established and assessed by the owners of houses according to the number of their chimneys. As for what is relative to the division or sale at public auction of the 300 *toises*, I order you to execute in presence of, and after having thereof given notice to, the Cabildo and the attorney syndic general, and that you give me an account, and a copy of the proceedings, informing me of what may occur: such is my will. Done in Madrid, 21st of December, 1797.

I, THE KING.

By order of the King our lord.

ANTHONY VENTURA DE FRANCO.

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Afterwards, by a letter of the 9th of May, in the following year, 1798, you give information, with documents, that considering that the reluctance with which the inhabitants of this capital contributed and paid their monthly real per chimney for the support of the town lamps, proceeded from the contribution falling upon the poor, because their houses are small, and all of them required chimneys, you had established, in virtue of the proposition made in the city council which you had convoked for that purpose, a new contribution upon the meat and bread, because this contribution on the 1st article did not cause the smallest prejudice to the inhabitants, since it was levied upon the extraordinary profits of the butchers; and was imperceptible on the 2d article, as it was reduced to two drachms on each loaf, and the poor did not feel that augmentation, bread being used by them only as a luxury, their daily food consisting of rice and Indian corn; and the foreigners who enjoyed that benefit would contribute by these new means; and you prayed me to approve the aforesaid contribution.

After having taken this into consideration in my council, and upon the information given to me upon that subject by the royal treasury, and the representation made by my fiscal, it has appeared to me proper to repeat to you my within royal decree, and to give you notice that you have exceeded your powers, in carrying into effect the measure proposed without waiting for my royal approbation, contrary to the dispositions of the laws, 53 tit. 3d, lib. 3d, and law 1st, tit. 15, lib. 4th. And I order you, in concert with the cabildo and the assessors, you compose a written instrument, explaining the reasons why the aforesaid new plan of contribution is preferable to the established or chimney. That the produce of said new contribution on bread and meat be ascertained; and also the expenses for town lamps and watchmen, that the said contribution be diminished or augmented as the case may require: such is my will. And it is also my will that the present be recorded by the royal treasury. Done in Aranjuez, 19th of May, 1801.

I, THE KING.

By order of the King our lord:

ANTONIO FORCAL.

To the Governor of Louisiana, repeating to him the royal decree, which is cited, by which his predecessor had the establishment of town lamps and the watchmen in the capital, approved; and also the expenses for the purchase of 80 *lamps, &c.*

The within was recorded in the department septentrional of the royal treasury of the Indies, Madrid, June, 1801.

PEDRO APARICY.

Upon receiving this royal decree of his Majesty, and of the lords of his supreme council of the Indies, and the same being read by his honor, after the usual formalities, he said that he obeys to it with due respect and veneration, and that what is thereby decreed shall be *employed* with and executed; that a copy of it shall be sent to the most illustrious city council; that, upon their having deliberated on the subject mentioned in it, they may expose what they think convenient; and that the attorney syndic general shall be directed to show that the new imposition established for the town lamps, is of a greater utility than the other; and to state, further, what may serve to illustrate the matter in question.

MANUEL SALADO.
NICHOLAS MARIA VIDAL.

Ordered by Manuel Salado, colonel of the royal armies, &c., upon consultation of the auditor of war. New Orleans, 9th April, 1802.

PETRO PEDESCLAUX,
Not. Pub.

I certify that the present translation has been well and truly made, to the best of my ability. New Orleans, Sept. 14, 1806.

L. MOREL,
Translator to the Sup. Court.

Decision of Commissioners. No. 175.

The mayor, aldermen, and inhabitants of the city of New Orleans, claim a parcel of land as commons, designated in a plat recorded in the register of claims, book 2, folio 70, and included in the red lines marked L, T, O, P, Q, B, A, R, S.

This claim is in part settled by the acts of Congress of 1807 and 1811, which confirm to the corporation 600 yards from the fortifications and the city, but which are, nevertheless, embraced by the claim aforesaid. In vain have the commissioners searched in the documents Nos. 3 and 5, to which they are referred for proof, of even a shadow of title to this land. There is no evidence of its ever having been granted or considered as belonging to the city, either by the French or Spanish Government.

The board therefore reject the claim of the corporation to all the lands now or formerly occupied by the fortifications erected by the Baron de Carondelet, and to all the lots and vacant parts of land between the said fortifications and the city, and within and in front of the city, between Levee street and the river.

REGISTER'S OFFICE, NEW ORLEANS,

June 10th, 1831.

I, Hilary B. Cenas, register of the land office for the eastern district of Louisiana, do hereby certify the foregoing annexed plat, marked as document No. 2, and the foregoing notice of claim, &c. and documents Nos. 1, 4, 6, as well as the foregoing decision of the board of commissioners on land claims for the eastern district of the territory of Orleans, on the claim of the mayor, aldermen, and inhabitants of the city of New Orleans, (No. 175,) to be true and faithful copies taken from the records now in my possession, and forming part of the archives of the land office under my charge.

In faith whereof, I hereunto subscribe my name, at New Orleans, this 10th day of June, 1831.

HILARY B. CENAS, *Register.*

Statement of facts and documents annexed to the same, filed in the said cause, on behalf of the corporation.

UNITED STATES, *vs.* The MAYOR, ALDERMEN, &c. OF NEW ORLEANS. } *Statement of facts, and of the evidence offered on the part of the corporation of New Orleans.*

1st. From time immemorial, both before and subsequently to the cession of Louisiana to Spain, there has existed, for the convenience of commerce,

both in the towns of France and in those of the French colonies situated on navigable streams or on the sea-shore, a vacant space between the first row of buildings and the water's edge, which vacant space is generally termed a *quay*, and is destined for the reception of goods and merchandize imported or to be exported. These quays are of various dimensions, regulated in sea-ports by commercial operations and convenience, and in those situated on rivers, both by the above considerations and by that of the encroachments which the rivers may make on their banks.

2d. Nevertheless, the government or municipal authorities of those places, frequently permit buildings, intended for purposes of public or private convenience, such as market-houses, fountains, baths, coffee-houses, &c., &c., to be erected on part of those *quays*.

3d. Towns in the French colonies have never been incorporated like those of the United States; they are founded in virtue of orders emanating from the Government, or from the minister of the marine, and transmitted to the governors of the colonies; and their administration was confided to *intendants*, who had authority to enact the necessary police regulations.

4th. The governors of colonies, on receiving these instructions, issued their orders to the chief engineer of the colony, or in default of such officers, to a surveyor, to draft a plan of the projected town. This engineer or surveyor drafted the plan and signed it, with mention of the place and day, month and year, when it was completed. This plan, thus signed and dated, was delivered over to the governor, and lots and squares were granted or sold out to individuals, with reference to it.

5th. The chief engineer was an officer of the royal corps of engineers, and performed the duties both of military and civil engineer.

6th. For a number of years before the revolution, there has existed in France, an office attached to the navy department, in which all manuscript plans and maps of the French colonies, or their cities, forts, fortifications, &c., were deposited.

7th. All the lands on the banks of the Mississippi, in Lower Louisiana, is alluvial. This river is subject to annual and periodical rises, and unless its waters were confined within the channel by strong embankments, they would overflow all the adjoining land until they fell and retired within the bed of the river, that is to say, during about five or six months in each year. But for these dykes or *levees*, as they are here called, the construction and maintenance of which cost the inhabitants, who are, and have always been, liable to the performance of this duty, a great deal of money and labor, the whole country bordering on this part of the Mississippi would be uninhabitable during the spring and summer.

8th. During this rise, the Mississippi is continually effecting changes in its banks; it undermines them in the bends, and carrying off the earth which it detaches, deposites it on the points; so that in may parts of these bends, as soon as the waters fall and return to their accustomed bed, the land on the margin being deprived of support, gives way, falls into the stream, disappears, and is carried down by the current until it is united to the bank at some lower part of the river.

9th. For these reasons, it is an almost universal usage among persons dwelling on the banks of the river, to build their houses at a sufficient distance from its margin to allow space for the construction of new levees, and to furnish new public roads, without being compelled to remove their houses and other buildings whenever the levees and roads are carried off by the stream.

10th. Under the French and Spanish Governments, the vacant space between the first row of buildings and the margin of the Mississippi, always existed; it never was divided into squares and lots. The streets of the city have never been laid off, or continued from said row of houses to the river. It was only in 1818, that the corporation caused the said streets to be prolonged as far as the Levee.

11th. Under the Spanish Government there was, on this vacant space near the river, a wooden market-house, constructed by the cabildo, (council) between St. Anne and Dumaine streets. This building was demolished by the corporation, and the present market-house constructed on the same spot.

There was, also, on this square, and adjoining to the Levee between Dumaine and St. Philip streets, a wooden building belonging to Mr. Arnaud Magnon, who had erected it in virtue of an authorization from the Spanish Governor. This same Magnon, had, with the permission of the *cabildo*, built, near the same spot, and lower down than his house, between the river and the Levee, and on an alluvion then recently formed, a large *shed* or scaffold which he used as a workshop, he being a ship-builder.

There was, also, on this part of the bank, at the foot of the Levee, in front of the public square, several small wooden cabbins, which the cabildo had permitted individuals to erect there, after the fire of 1798, who were subject to the payment of a small annual rent for the benefit of indigent orphan children. These huts were destoyed after the cession of Louisiana to the United States, and at the instance of the corporation.

There was, also, on this vacant ground, under the Spanish Government, 1st, a wooden building between Custom-house and Bienville streets, which was used as a custom-house; 2d, a large storehouse, also of wood, near the said custom-house, in which the tobacco (of which the Government had a monopoly) was stored. This storehouse did not exist at the time the United States took possession of the country. The custom-house, which was in a very bad condition, was abandoned at that time, and the United States' custom-house was established, at the time of the cession, in a small building situated on a portion of the ground occupied by the old royal storehouses, between Dumaine and St. Philip streets.

12th. Before the cession of this country to the United States, this vacant space, throughout the whole extent of the front of the city, was used by the public. It was, at that time, covered with grass and weeds, and the horses and cattle of citizens were sent to pasture upon it. Since the cession, and since the increase of the commercial business of the city, the vegetation has disappeared, but the inhabitants of the city have, particularly since the cession, continued to use the greater portion of this space for the transportation, lading, and unlading of goods, and as a place of deposite for materials, &c. The streets, running at right angles to the river, were prolonged by the corporation as far as the Levee, and this prolongation was executed and kept up at their expenses. In 1818 they made, and have since kept in repair, at their own expense, a new street or high road, on that large open space at the foot of the Levee, and throughout its whole extent.

13th. Under the Spanish Governments the inhabitants possessed the commons all around the city, a part of which they appropriated to various uses. Governor Carondelet, at the request of the *Cabildo*, caused a plan of it to be prepared by the surveyor general, Laveau Trudeau, which was not finished until the year 1798; a copy of which plan is annexed to the proceedings in this cause, under the

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14th. The Levée in front of the city has always been made and kept in repair by the inhabitants of New Orleans. In 1805, this Levee was generally, throughout its whole extent, 3½ feet high, from 15 to 20 feet broad at the top, and widening towards the basis.

15th. Before the year 1815, this levee was undermined in many places by the river, and threatened to fall in. In order to prevent this accident, which would have compelled the corporation to make a new one nearer the houses, and consequently on the vacant space, they caused, at their own expense, carpenter's work, to a large amount, to be done in front of the levee; by means of which, it was put in the strong and solid state in which it now is. The point at which this work was most required, and where most of it was performed, was between St. Louis and Toulouse streets, where the soil on which the levee rested, was so much undermined by the current, that the water sprung up through it in large quantities, and the owners of the houses in that quarter feared that their foundations would give way. The works above mentioned arrested the progress of a danger, which was so justly apprehended.

16th. Since the taking possession of Louisiana by the United States, an alluvion has been, and is still, continually forming in the river Mississippi, in front of the city of New Orleans, particularly towards the upper end and lower extremities of the city. These alluvial formations are exhibited, together with the streets made in 1818, in the plans draughted by Joseph Pelie, city surveyor, and which are annexed to the record, marked 1, 2, and 3.

17th. In consequence of works ordered by, and performed at the expense of the corporation, the levee in front of the city is now, in the upper part of the city, 140 feet wide; in the centre of the city, from 66 to 80 feet wide. These augmentations have been made without encroaching on the vacant space between the street opened in 1818 and the water's edge, on the alluvial soil since formed on the outside of the levee.

18. Parts of this vacant space might be disposed of to individuals, without at all interfering with the public use of it, or with the loading or unloading of goods, the levee as it now is being amply sufficient for all these purposes.

19th. There are two copies of plans of the city annexed to the record; the one made in 1724 by Mr. De Panger, and signed by him; the other made in 1728 by Mr. Nicholas Broutin, marked 1 and 2, on both of which the vacant space, the subject of the present controversy, is designated by the name of *quay*. The former of these plans is not authenticated: the latter *is* authenticated, according to all the forms required in France for the authentication of copies of acts or instruments in foreign countries. These two copies of plans are taken from copies deposited among the archives of the city since the end of the year 1819, and which Moreau Lislet, esquire, counsellor at law for the corporation, had caused to be obtained from the office of plans and maps of the French colonies attached to the Department of the Navy, and of French colonies. Nicolas Broutin was the engineer of the King of France, in Louisiana.

20th. Authentic copies of various instruments, by which lots situated in front of the city were granted or sold, under the French Government, before the cession to Spain, and in which they are designated as situated on the *quay*, or fronting the *quay*. These copies are annexed to the record, and numbered from to inclusively.

21st. A plan which is found in the work of Peré Charlevoix, the Jesuit, entitled "History of New France, with the historical journal of a voyage undertaken by order of the King in North America," published at Paris in the year 1724, in three volumes, *in quarto*, vol. 2, p. 423, in which, also, the vacant space, the subject of the present controversy, is denominated a *quay*.

22d. The laws of France and of its colonies, prevailed in Louisiana from the first settlement of the colony until the 25th November of the year 1769, when Alexander O'Reilly, captain general, invested with full powers for that purpose by the king of Spain, abolished them, and substituted in their stead the laws of Spain; which were in force at the time this suit was instituted.

23d. Three works entitled "Histoire de St. Dominique par Moreau de St. Mary," in 2 vols. *in quarto*, "Histoire de la Nouvelle France, par le Pere Charlevoix," 3 vols. *in quarto*, and "History of Louisiana, by François Xavier Martin," in 2 vols. in 8vo, are admitted to be works of accuracy and authenticity, on the subjects of which they treat, and may be referred to as evidence in this cause.

Signed: MAZUREAU,
MOREAU LISLET,
Att'ys for Corporation.
JOHN SLIDELL, *Dist. Atty.*

Document No 1.

Personally appeared Mr. Pierre Chartier de Bauluc, esquire, knight, counsellor of the king in all his council, ex-attorney general for the king in the superior council of this colony, acting both in his name and as attorney in fact of his wife, by virtue of her letter of attorney, executed before Demahault and Gaschin, notaries in the *Chatelet of Paris*, on the 14th April, 1724, which letter shall remain annexed to these presents; which appear has, by these presents, acknowledged and owned having sold, conveyed, set over, and transferred, from this day and forever, and promises to warrant against his own deeds and promises only to Mr. Raguet, counsellor to the king, and deputy attorney general near the said council, hereto present, and accepting for himself, his heirs and assigns, a portion or lot of ground situate in this city, No. (granted to the said Mr. De Bauluc by the directors general of the said province, by their ordinances, written at the bottom of the petition preferred to them, on the 9 Nov. 1722,) enclosed with pickets, on which lot there is a frame house, built on Wharf street, (Rue du quai,) 36 feet long by 20 wide, weather-boarded and floored above and below, consisting of a parlor and four rooms, whereof one has a fireplace, divided by partitions, a garret above, roofed with shingles, with two side buildings in the rear, each fifteen feet long by 12 wide, likewise weather-boarded, with posts in the ground, having likewise a fireplace, with a shed 7 feet long by 12 to each building, the whole roofed with shingles, as all the above described appurtenances do now stand and exist; wherewith the said Mr. Raguet is satisfied, having seen and examined the whole; to hold the same unto him as his property, the said Mr. De Bauluc hereby making unto him to that effect the necessary conveyance and transfer, free and clear of all debts and mortgages, without any exception nor reservation: the said Mr. Raguet hereby acknowledging that the said De Bauluc has, at this moment, deliver-

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ed into his hands the said petition and ordinance; wherewith he is likewise satisfied.

The said sale is made in consideration of the price and sum of 4,500 livres, which the said De Bauluc acknowledges having at this moment received, cash, in specie, from the said Raguet; acquittance whereof is hereby granted. For thus does he promise, &c., obligate, &c.

Made and passed in our office, at New Orleans, in the year 1725, the 24 April, afternoon, in presence of Charles Droy, deputy clerk, and of Jean Baptiste Massy, witnesses residing in the said city, and they have signed.

The original is signed

CHARTIER DE BAULUC.
RAGUET.
DROY.
MASSY.
ROSSARD, *No'ty.*

A true copy from the original on record in my office. In faith whereof, I have signed these presents, and affixed my seal of office, at New Orleans, this 9th March, 1831.

Signed: LOUIS T. CAIRE, *Not. Pub.*

Document No. 2.

Petition of Mr. De Marveilleux, to the members of the Administration Council of Louisiana.

GENTLEMEN: F. L. De Marveilleux, supernumerary captain in this colony, prays that he may be granted the two lots of ground which are situated in the rear of and along the barrack, which the company granted him in the Swiss camp, by the disbanding of the Swiss troop, according to the letter which he had the honor of producing to the council.

Signed: MARVEILLEUX.

At the sequel, the following is written:

Referred to Mr. De Panger, for his opinion.

The council requests Mr. De Panger to examine the lot and report his opinion.

Given in the council chamber on the 8th January, 1726.

Signed: PERAULT, and FLEURIAN.

Underneath is written—

Opinion of Mr. De Panger.

Having examined the lot of ground, and the barrack, which are petitioned for by Mr. De Merveilleux, and are situated in Royal street, forming the corner of Bienville street, numbered on the plat of the city,(....) my opinion is, that the council do grant the said lot of ground, with the large barrack, which was occupied by the soldiers of the Swiss company; the said lot of ground having 20 fathoms front by as many in depth.

On these only conditions, that such of the soldiers as have quite recently built small barracks thereon, on the side of Bienville street, shall remain in the

the peaceable thereof, as long as they shall remain in this country, without their being permitted to have doors or windows opening on said lot; and that, should the said soldiers wish to take up their lodgings elsewhere, they shall be allowed to carry there the said barracks, unless they prefer selling them to Mr. De Marvielleux, on a valuation to be made thereof at that time by sworn appraisers; for they shall be at liberty to sell them, nor alienate them to others, being badly conditioned and ill built barracks, which cannot stand.

On the day and year above written.

Signed: DE PAUGER.

Next follows:—

The council grants to Mer. Merveilleux the lot of which he prays for, together with the large barrack which was occupied by the soldiers of the Swiss company, on condition that those of the said soldiers who have recently built thereon small barracks along Bienville street, shall keep possession thereof as long as they remain in this country, without having either doors or windows opening on said lot of ground; and that the said soldiers shall be at liberty, if they wish to take their lodgings elsewhere, to carry there the said stakes, unless they prefer selling them to the said De Merveilleux, not being allowed to sell or let them out to others.

Given in the council chamber, on the 10th of January, 1726.

Signed: BOISBRIANT.
PERAULT.
FAZENDY,
PERRY, and
FLEURIAN.

By the council: DECHAVANNES.

Approbation of Mr. Dalachaise.

Underneath is written—

Whereas the company of the Indies have directed to me their particular orders, by the letter which they have written to Mr. De Merveilleux, on the 28 of July, 1725, to the end of granting him the lots, which may suit him; and whereas the said Mr. De Merveilleux has demanded my approbation for the above described one, I consent, for the benefit of the company, that he remain peaceable possessor thereof, on the same conditions on which it has been granted to him. At New Orleans, this 11th of January, 1726.

Signed: DELACHAISE.

Next follows—

Registration in the Clerk's office.

Registered by us, chief clerk of the superior council of the province of Louisiana, in our register, fo. ~~49~~ 39 & 40. Verso & recto. At New Orleans, this 26th February, 1726.

Signed: ROSSARD, *Clerk.*

" In the year 1831, on the 23d March, these presents have been collated by me, L. T. Caire, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, and undersigned, with the original document, which is in my possession, as being among the papers, which were in the office of the late Philip Pedesclaux, formerly a notary public in this city, whose immediate successor I am."

In faith whereof, I have delivered these presents, which I certify to be true copies of the original; and I have hereunto affixed my seal of office.

Signed: LOUIS T. CAIRE.

Document No. 3 179.

Ordinance for the removal of the seals affixed after the decease of Mr. De Pauger, Chief Engineer of the Colony.

By consequence of a petition preferred to the members of the superior council of the province of Louisiana, by Mr. Delachaise, the king's commissioner in the said province, and counsellor in the said council: in his capacity as executor testamentary of the late Mr. De Pauger, knight of the military order of St. Louis, chief engineer of the colony, likewise counsellor in the said council, the following ordinance is given:

Having examined the above petition, the council orders that the acknowledging and removing of the seals, affixed on the effects of the said late Mr. De Pauger, and the inventory and description thereof, be proceeded to in presence of the attorney general of the king; and that, afterwards, the said effects be sold to the last and highest bidder, in the customary manner, for the preservation of the rights of the heirs and creditors, if any there be.

Given in the council chamber, on the 12th June, 1726.

Signed: PERRY, and BRUSLE.

In the year 1831, on the 20th March, the presents have been collated by me, Louis T. Caire, (the undersigned, notary public, in and for the city and parish of New Orleans, duly commissioned and sworn,) with the original of the said ordinance, written as above stated, at the sequel of the aforesaid petition; the whole being in my possession, as being among the papers which were in the office of the late Philip Pedesclaux, formerly a notary public in this city, whose immediate successor I am.

In faith whereof, I have delivered these presents, which I certify to be a true copy from the original; and I have hereunto affixed my seal of office.

Signed: LOUIS T. CAIRE, *Not. Pub.*

Document No. 4.

Personally appeared Peter and Mathurin Dreux, brothers, residing on their plantation, actually present in New Orleans, owners of a lot of ground situate on the front part, in the said place, who, by these presents, acquiescing in the decree of the council of the 27th September last, have acknowledged and owned having sold, conveyed, set over, and transferred, from this day for ever, and promised to warrant against their acts and promises only, unto Mr. Danseville, councillor in the superior council of the province of Louisiana, here present, and excepting ten feet of ground, exclusive of the enclosure, making part of the abovementioned lot on the front part and adjoining the house of the said Danseville, by 57 feet in depth, and with the same width of ten feet, exclusive of the enclosure, including the fourth of the front gate, such as it is located; to hold the same for ever unto the said Danseville, as his own property, both the said Dreux hereby making unto him the necessary cession and transfer, fully and completely, without any reservation nor exception.

This sale is made in consideration of the sum of 275 livres, which the said Dreux acknowledge having received in cash from the said Dansville, in current money, acquittance whereof is hereby given. For thus, &c., promising, obligating, renouncing, &c.

Made and passed at New Orleans, in our office, in the year 1728, the 13th day of January, before noon, in presence of Charles Droy, deputy clerk, and of Peter Dargaray, usher to the council, residing in this place, witnesses. And they have signed.

Signed: DREUX,
M. DREUX,
DROY,
DARGARY, and
ROSSARD, *Notary.*

In the year 1831, on this 10th day of March, these presents have been collated by me, Louis T. Caire, notary public in and for the city and parish of New Orleans, with the original deed of sale, which is in my possession as the mediate successor of the said Rossart, formerly a notary in this city. In faith whereof, I have signed these presents, to which I have affixed my seal of office. Na. The signature of Danseville is wanting on the original.

Signed LOUIS T. CAIRE, *Not. Pub.*

Document No. 5.

1*st May*, 1733. *Grant of a lot on the wharf to Mr. Broutin.*

We, the governor and navy commissioner, intendant commissary for the king, in the province of Louisiana, by virtue of the power conferred on us by his majesty, have, under the gracious pleasure of the king, conceded and granted, and we do concede and grant, by these presents, for ever, unto Mr. Broutin, king's engineer, a lot of ground, marked F, lying in this city on the wharf, on which there is a house or hut falling to ruin, having ten fathoms (toises) front, by 32½ fathoms in depth, adjoining on the right the lots marked E, belonging to the estate of the late Andre Carriere, on the left adjoining the lot marked G, belonging to Mr. Delafreniere, and in the rear the lot No. 21, belonging to the late Mr De Mandeville; to hold the same unto him, his heirs, and assigns, as his own property, subject to the services which may be imposed by his majesty, by reason of his domain, and on condition that the said Broutin shall have the said lot cleared, built on, and fenced in, and shall dig around the same the necessary ditches to let the water run off, under the penalty of the said lot being reunited to his majesty's domain. In faith whereof, we have signed these presents, and caused our seal, bearing the impress of our arms, to be hereunto affixed, and the same to be countersigned by our secretaries. Given at New Orleans, on the 1st day of May, 1733.

The original is signed Bienville, Salmon, by my said lord Fabry, by my said lord Coutenier.

A true copy from the original. New Orleans, February 21, 1831.

Signed: LOUIS T. CAIRE,
Not. Pub.

Document No. 6. 182.

Personally appeared, Mrs. Louise Etiennette de Malbec, widow of the late Charles Petit, esquire, Lord of Levilliens Equerry, captain of infantry in Louisiana, acting both in her own name, and as tutoress to the minor children of the deceased, and of herself; which appearer has hereby sold, granted, relinquished, abandoned, and transferred, from this moment for ever, and promises to warrant against all disturbances and hindrances whatsoever, to Mr. Jean Français Joseph Delfure de Pontalba, lieutenant of infantry in this colony, here present, and accepting a lot of ground situate in this city, fronting the wharf, and adjoining on one side the lot sold by the said lady to Mr. Pery, and ceded by him to Mr. Dubreuil, senior, builder, and on the other side adjoining the estate of the late Mr. Pellerin, and on the rear the lot of Mrs. Devanpont; on which lot of ground there is a frame built house, roofed with shingles, weather-boarded, a shingle roofed kitchen, and a small pavillion, likewise roofed with shingles, and with all its appuretnances and dependencies, wherewith the said purchaser is satisfied, having seen and examined the whole; the said lady making unto him all necessary cession and transfer thereof from top to bottom; without reserving nor retaining any part thereof, to the end that the said purchaser may hold and possess it, he and his heirs, as a property to him belonging, in the same manner as it has been possessed by the said lady and her deceased husband, who have purchased the said lot of ground at auction, at the bar of the court, as being part of the estate left by the late Mr. Domonon; the said purchaser acknowledging that the titles of ownership have been delivered into his hands.

And the said sale, cession, and transfer are thus made, in consideration of the price and sum of five thousand livres, colonial money, which the said purchaser promises and binds himself to pay, to wit: Three thousand dollars in the course of the present year, and the remaining 2000 livres in the course of the next year 1742; to secure which payments, the said purchaser mortgages, pledges, and hypothecates all his moveable and immoveable property, both present and future, and especially the said house and lot of ground; the said lady promising to re-invest the said funds in lands for the safety of the present purchase as soon as practicable. It has been moreover agreed, that, on failure of the first payment, the said purchaser shall be sued for the whole, as it has been covenanted; for thus promising, obligating, renouncing.

Made and passed at New Orleans, in my office, in the year 1741, on the 2d of October, in presence of Messrs. Augustin Chantalon and Marin le Mormand, witnesses, residing in the said city; and they have signed, after due reading thereof. (Signed on the original) Malbec Petit de Livilliens, Pontalba, Chantalon. Le Mormand, Fleurian, witnesses present, E. Henry; this latter a notary.

In the year 1831, on the 10th March, these presents have been collated by me, Louis T. Caire, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, and undersigned, with the original of the said deed, which is in my possession, as the immediate successor of the said Henry, anciently a notary. In faith whereof, I have delivered these presents, under the impress of my seal of office.

Signed: LOUIS T. CAIRE,
Not. Pub.

Document No. 7.

Preliminaries of agreement between Mr. Danseville and Mr. Provost, for the exchange of lots.

We, the undersigned, have agreed on the following articles, viz:

That I Raymond Amiot Sieur Danseville, set over and convey to Mr. Jean Baptiste Prevost, agent for the company of the Indies, the house which I have purchased from Mr. Lemelle, alias Bellegarde, and part of the lot thereto appertaining, consisting of 43 feet front on the wharf, by a depth in fathoms equal to the depth of the lots belonging to Mr. D'Hauterive, reserving to myself that portion of the transversal lot which made part of the purchase of the said Bellegarde. I convey, besides the acquisition made from Mr. Dreux, ten feet, exclusive of enclosure, front on the wharf, adjoining the said lot purchased from *the* the said Lemelle, by 57 feet in depth, and besides 20 feet front out of the lot purchased from Mr. Dreux, making part of the first lot of the square, opposite the side of Mr. Peadel, adjoining in the rear the lot bought of the said Bellegarde, so as to retain for me only the transversal lot, between the one belonging to the estate of the late Beaulieu, and the one belonging to the estate of the late Mr. Dreux.

In exchange whereof, the said Mr. Prevost conveys to me the lot which I have exchanged with Mr. Dubreuil for the one belonging to the estate of widow Lazon, and which the said Mr. Dubreuil has sold to the said Prevost, consisting of 10 fathoms front by 23 in depth. For the balance of the value whereof, the said Prevost has presently paid me the sum of two thousand five hundred livres in paper money, (*monnaie de carte*,) wherewith I am satisfied, as a compensation for the said exchange, and for the buildings which are erected on the lots conveyed by the said Danseville. Promising on both parts to sign a deed thereof, at the first request that shall be made, as being both satisfied with the said exchange. Made in duplicate, at New Orleans, on the 15th day of August, 1742.

Signed: DANSEVILLE & PREVOST.

In the year 1831, this 10th day of March, these presents have been collated by me, Louis T. Caire, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, with the original, under private signature, which is in my possession, as being among the papers that were in the office of the late Ph. Pedesclaux, notary in this city, whose immediate successor I am. In faith whereof, I have hereunto affixed my seal of office.

Signed: LOUIS T. CAIRE,
Not. Pub.

Document No. 8.

Literal extract from the last will of Mr. Rene D'Hautrive, hereinafter dated, received by Henry, notary of the province of Louisiana, residing in the city of New Orleans.

In the year 1742, on the 24th day of the month of August, at nine o'clock in the evening, at the request of the honorable Rene D'Hautrive, knight of the military order of St. Louis, mayor of the garrison in this city of New

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Orleans, we, royal notary of said province, did repair to his house, situate on the front part of the said city, and being there, have found the said Mr. D'Hautrive lying on his usual bed, in a room fronting on the wharf; we have found him of sound sense, memory, and understanding, certain of death, uncertain of the hour thereof: wishing to anticipate the whole, by settling his worldly concerns, he has declared to us that he wished to make his last will and testament, in the manner following, which he has dictated to us from his own mouth, after recommending his soul to God, and to his patron Saint Rene, whom he prays to intercede near the Divine Majesty, in order that as soon as his soul shall be separated from his body, *He* may be pleased to receive and place him among the blessed; it being his express will and intention that he be buried among the faithful Christians, as professing the Catholic, Apostolic, and Roman faith. Native of Chateau.

RENAUD, *Archbishoprick of Tours.*

Extracted and collated by me, Louis T. Caire, notary public for the city and parish of New Orleans, duly commissioned and sworn on this day, the 25th February, 1831, and the 55th year of American independence, with the original of the said last will, which is in my possession, as mediate successor of the said Henry, formerly a notary in this city. In faith whereof, I have hereunto affixed my seal of office.

Signed: LOUIS T. CAIRE,
Not. Pub.

Document No. 9.

10*th September*, 1742. *To Mr. Salmon, navy commissioner, intendant commissary, and chief justice in the colony.*

The attorney general sets forth, that Mr. Rene D'Hautrive, knight of the military order of St. Louis, mayor of New Orleans, has just died in his house, on the wharf of this city; that he leaves no children, but his widow has children by her first husband, and he has sisters or heirs in France, all these absent persons having an interest; that the preservation of their rights be attended to, as well as the creditors, if any there be.

May you be pleased, sir, to order, that at our request seals be affixed by one of the gentlemen whom you may be pleased to appoint, on the effects left by the deceased, for the preservation of the rights of the widow, of the heirs, and of all other persons whom it may concern, in order that afterwards, in proper time and place, the seals may be removed in the presence of the adjutant of the place, on observing the formalities prescribed by the ordinance. New Orleans, this 10th day of September, 1742.

Signed: FLEURIAN.

Let it be done as prayed for; and to that effect we have named Mr. Raguet, one of us, on the said day and year.

Signed: SALMON.

A true copy from the original, on record in my office. In faith whereof, I have signed these presents, and affixed my seal of office, at New Orleans, this 1st day of March, 1831.

Signed: LOUIS T. CAIRE,
Not. Pub.

Document No. 10.

Literal extract from the inventory made after the decease of Mr. Rene D'Hautrive, and hereinafter dated.

In the year 1742, on the 13th September, at 8 o'clock in the morning, at the request of Mrs. Charlotte Ronex, widow of the late Rene D'Hautrive, knight of the military order of St. Louis, and mayor of New Orleans, and by consequence of the ordinance written at the bottom of the petition presented this day, we, Jean Baptiste Raguet, counsellor in the superior council of Louisiana, commissioned to that purpose, did repair to the house of the said late Mr. D'Hautrive, situated on the wharf of this city, being accompanied by the King's attorney general, in the name of, and stipulating for, the absent heirs and creditors, in case there should be any, by the notary of this province. In presence of Mr. Bellile, captain adjutant of this city, and being on the premises, we have found Mr. Demony entrusted with the seals affixed on the effects liable thereto, as well as with the inventoried ones which were apparent; and he having exhibited to us the said inventoried effects, as well as our seals affixed on the aforesaid places, agreeably to the proces verbal of the 10th instant, which seals we have found whole and entire, we did proceed to the removal of the said seals, and to the inventory, description, and appraisement of the said effects, in the following manner; which effects have been appraised by Le Mormand, sworn appraiser.

Buildings and lots.

One lot and a half fronting on the wharf of this city, and at the corner of the street opposite the intendant's house, whereon there is an old house, roofed with shingles, falling to ruins; one-half of which house is on Mr. Prevost's lot.

Item: A frame built kitchen, roofed with shingles, with a brick chimney, oven and stove; the whole valued at $6,000.

Extracted and collated by me, Louis T. Caire, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, on this 25th day of February, 1831, in the 55th year of American independence, with the original of the said inventory, which is in my possession, as being among the instruments and documents which were in my office of the late Pes. Pedesclaux, formerly a notary in this city. In faith whereof, I have hereunto affixed my seal of office.

Signed : LOUIS T. CAIRE.

Document No. 11.

3d November, 1742. *Marriage of Pierre Voisin to Anne Corbin de Bachemin.*

Before the royal notary of the province of Louisiana, residing in New Orleans, in presence of the subscribing witnesses, came and appeared, in person, Mr. Pierre Voisin, merchant, residing in this city, and assistant major of the militia troops, and widower of Mrs. Helenne Modieste Piednoir, who died in this colony, of the one part, and Mrs. Anne Corbin de Bachemin, widow of the deceased Mr. Pierre Dreux, and the daughter of

the deceased, Mr. Jean Bachemin Corbin, and of Anne Marie Judith Hardy, her father and mother, of the other part; which parties have voluntarily, and without compulsion, entered into the following covenant and marriage agreement, in the presence of, and with the consent of, their relatives and friends: namely, on the part of said future husband, Mr. Barbin, his son-in-law, and keeper of the King's stores at the Balize; Messrs Bienville, governor; Salmon, intendant commissary, and Voisin, his son. And on the part of said future spouse, the widow, Mrs. Bachemin, her mother, Mr. John Corbin, her brother, and her brother-in-law, Mr. John Baptiste Raguet, counsellor of the King, in the superior council, and Messrs. Moresset and Saint Martin, officers of the city militia. And by and with their advice and consent, they have promised, and do hereby promise, to take each other in good faith, and according to the law regulating marriage, and to cause this said marriage to be celebrated publicly, in the presence of our holy mother the church, and that, too, as soon as possible.

There shall be, between the said future husband and wife, a community of moveable effects, acquest, and immoveable acquisitions, according to, and in conformity with, the custom of Paris; to which custom they submit for the execution of the clauses and conditions hereafter stipulated.

Neither the said husband or wife shall be bound for the debts made and created before the celebration of said future marriage; but if any have been made or created, they shall be paid and cancelled, by and out of the property of him or her to whom the same belonged previous to this said marriage, without the other party, or his or her property, being accountable for the same.

The said future husband declares that the contracts and entries into this marriage, with the property, rights, and actions coming and belonging to him, in consequence of the marriage which he contracted heretofore with the said Madam Piednoir, his deceased wife, the community of which was dissolved by a judicial separation of property, which took place at Saint Malven, in the year 1725 or 1726; on account of which, he is only bound to restore to the children had with the said deceased madam, the dowry which he received of her, amounting to 3,000 livres, the one-third of which was included in the community, in conformity to their contract of marriage of the year 1714.

The said future husband has likewise declared to take his said future spouse, with her property, rights, and actions, which she alleges to consist especially in the amount of the inventory or estimated statement which was made on yesterday, in the presence of the said future husband, and in that of their relations and mutual friends, amounting to the sum of 9,479, and 10 sols, not including her plantation called the brewhouse, nor her house and lot of ground in the city, which have not been appraised nor valued, inasmuch a correct or just value cannot be fixed upon immoveable property, which is very liable to fluctuate in value, and which is, moreover, a species of property that cannot be converted into disposable effects nor sold; of which property and effects the said future husband is satisfied, having seen, examined, and been present at the taking of the inventory and appraisement of the same, hereby acknowledging the possession of said property, and entrusted with the same: which said inventory or statement under private signature, is to remain annexed to the present minutes, in order that copies may be delivered to the parties. The sum of 5,000 livres, of the above mentioned property, belonging to the said fu-

sure spouse, shall be included, and make part of the community property; the residue shall be and remain the paraphernalia or individual estate of the said future spouse, and unto her own lineal descendants and family, as well as all and every other species of property that may or shall descend or fall unto her during said marriage, whether by inheritance, donation, or otherwise.

The said future husband has settled, and hereby settles upon his said future spouse, a fixed dowry of three thousand livres, *once paid*, (une fois payeé,) to be received and taken by her, upon and out of all and any of the said future husband's estates or property, as soon as her right to claim and exercise the same shall exist or have accrued, and that, too, without any obligation on her part to demand the same judicially, or of giving any security.

The surviving future husband or wife, named above, shall take over and above his or her legal portion; and that, too, before the partition of the moveable effects of their said community property, and at the estimated price which shall be made by the inventory, and without any advertising or offering the same for sale, the amount and sale of 1,000 livres, or an equal sum in ready money, according to the choice of the survivor.

The said future wife, as well as the children that may be born from the said future marriage, shall have the right to accept or remove the said community property, and, in case of a renunciation, to take back all she may have brought into the same, as well as that which may have fallen to her during the said marriage, whether by succession, donation, legacies, or otherwise; also, the said dowry and extra portion, without she or her said children's being bound for the debts or charges of the said community, even though she may have consented to obligate herself, or been condemned for the same, from which she shall be discharged by and out of the property of the said future husband; to secure which, a mortgage shall exist from this day in her favor.

For it is thus the whole has been covenanted, stipulated, agreed upon, and consented to, by and between the said parties, at the time of passing these presents, all laws or customs to the contrary notwithstanding; to which the said parties have, at this present time, derogated and removed, promising and obligating each other, in law, for the fulfilment and execution of the above, and individually renouncing all and every thing contrary to the said stipulations.

Done and passed, in our office, on the 3d day of November, 1742, in the presence of Messrs. Augustine Chantalon and François Laroche, witnesses, residing here: and all the said parties have signed:

The minute is signed:

ANNE MARIE CORBIN.
Widow DREUX.
P. VOISIN.
Widow BACHEMIN CORBIN.
BARBIN.
T. DARBY.
M. DREUX.
RAGUET.
MARIE CORBIN DREUX.
MORISSET.
P. VOISIN, Son.

ST. MARTIN.
BIENVILLE.
SALMON.
LAROCHE.
CHANTALON.
HENRY.

Here follows the tenor of the annexed:

Inventory or statement of the moveable and immoveable property which the widow Madam Dreux brings into the marriage that is ready to be solemnized with Mr. Voisin; which inventory, as well as the appraisement, was made in his presence by the undersigned persons.

Id. One lot of ground at the city, situated upon the quay or levee, on on which a house is built of bricks as high as the first story, and the remainder with upright posts, with another small and indifferent house, made with pickets set in the ground; which lot of ground is not estimated.*

Id. The plantation called the brewhouse, (brasserie,) adjoining on one side the lots of ground of Mr. Dubreuil, and on the other side, those of Mr. Darby; the houses, appurtenances, and dependencies, in their whole extent, length and breadth, without reserving any part or thing thereof, which are in bad condition enough, not estimated, for the same causes assigned above.

Id. Two families of negroes, viz.

Peter, and Cathrine his wife, with six children, viz. one of 18 years of age, named *Hubert;* a young negro girl, aged about 11 years old, named Mary; two others of about 6 and 8 years of age; and two little negro boys, one of 4 years, and the other 1 year old, the whole estimated at 6,000 livres, ci. - - - - - - 6,000

Id. Another negro man, named *Leveille*, and his wife, Claudine, without children; the two estimated at 2,000 livres, ci. 2,000

More—one pair of oxen, and one cart, estimated at 300 livres, 300

Id. The moveable effects, consisting of, viz.

One tent bedstead, with its large covering, furnished with one straw bed, feather beds, one bolster, and four woollen coverlids; the whole estimated at 150 livres, ci. - - - - 150

Id. One table, with a drawer, estimated 15 livres, ci. - 15

Id. One small cypress cupboard, estimated 50 livres, ci. - 50

Id. The lower part of a cypress cupboard, estimated, ci. - 30

Id. One table, in bad condition, without a drawer, estimated 10 livres, - - - - - 10

Id. One cypress cupboard, estimated 60 livres, ci. - 60

Id. One dozen of half worn wooden chairs, estimated 24 livres, ci. - - - - - 24

Id. Five pair of bed sheets, the whole estimated at 220 livres, ci. - - - - - 220

Id. Two pair do. old, estimated at 20 livres, ci. - 20

Id. Four pillow cases, estimated 8 livres, ci. - - 8

Id. Four table cloths, partly worn, estimated 8 livres, ci. - 8

Id. Two dozen linen napkins, for family use, estimated 50 livres, ci. - - - - - 50

* Inasmuch as it cannot be converted into any other species of property. This reference approved.

Id.	Two dozen linen napkins, old, estimated 12 livres, ci. -	12	
Id.	Three pair andirons, estimated 40 livres, - -	40	
Id.	One three leg, estimated 5 livres, ci. - -	5	
Id.	Three fryingpans, estimated 12 livres, ci. - -	12	
Id.	Two old saucepans, estimated 20 livres, ci. - -	20	
Id.	Four iron pots, estimated 28 livres, ci. - -	28	
Id.	Three iron spits, estimated 15 livres, ci. - -	15	
Id.	One brass pea-soup strainer, estimated 6 livres, ci. -	6	
Id.	Three brass candlesticks, estimated 15 livres, ci. -	15	
Id.	Three " flat candlesticks, estimated 6 livres, ci. -	6	
Id.	One old skillet, estimated 3 livres, ci. - -	3	
Id.	One large jar, estimated 60 livres, ci. - -	60	
Id.	One dozen pewter plates, estimated at 15 livres, -	15	
Id.	Two do do porringers, estimated 3 livres, -	3	
Id.	Seven do do dishes, estimated 28 livres 10 sols. -	28	10
Id.	Two do do soup dishes, estimated 7 livres 10 sols.	7	10
Id.	Two do do tumblers, estimated 6 livres, -	6	
Id.	Twenty pounds old pewter, estimated 30 livres, ci. -	30	
Id.	Two dozen delft-ware plates, estimated 20 livres, -	20	
Id.	Five china cups and saucers, with one delft-ware tea pot, the whole estimated at 8 livres, - - -	8	
Id.	Four crystal salt cellars, the whole estimated 10 livres, -	10	
Id.	Three water pitchers, valued 4 livres 10 sols. -	4	10
Id.	Fifteen crystal tumblers, valued fifteen livres, -	15	
Id.	Six table knives, with bone handles, valued 12 livres, -	12	
Id.	Two old silver spoons, and two old silver forks, valued at 80 livres, is - - - - -	80	
Id.	Two demijohns, valued at 24 livres, - -	24	
Id.	Twenty bottles, valued 10 livres, - - -	10	
Id.	Three axes, valued 15 livres, - - -	15	
Id.	Four mattocks or hoes, valued 16 livres, - -	16	
Id.	Shovels or spades, valued at 8 livres, - -	8	
		9,479	10

Which are all moveables and effects, belonging to the said widow, the whole amounting to 9,479 livres and 10 sols; which said Madame Dreux declared to owe to some persons within the colony divers debts, the amount of which she knows not; besides 200 tierces or barrels of rice to the King's store, which her said husband had heretofore borrowed; which debts shall be paid by Mr. Voisin, upon her marriage taking place with him, out of the property which she shall bring into marriage, and which is set forth and enumerated in the present statement; likewise the debts, which my said Mr. Voison may owe, shall be acquitted or paid out of his own property, as the value will be more fully explained by the contract of marriage made and agreed upon at the brewhouse this 3d of November, 1742, in the morning, in the presence of Mr. Dreux, brother-in-law of the said Madam, Mr. Voisin, the future husband of the said Madam, Mrs. Bachemin, her mother, Mr. Raguet, her brother-in-law, Mr. Barbin, son-in-law of said Mr. Voisin, Mr. Darby, brother-in law of the said widow, Mr. Morisset, and other of her friends, who all signed the present; which will remain annexed to the minutes of the future contract of marriage, agreed upon between the said

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Mr. Voisin and the said Mrs. widow Dreux, both of whom signed with the persons named above.

Signed: P. VOISIN.
ANNE MARIA CORBIN.
Widow DREUX.
Widow BACHEMIN CORBIN.
BARBIN M. DREUX.
DARBY.

In the year 1831, on the 1st March, collation of these presents was made by me, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, with the minutes of said contract of marriage, and with the inventory here annexed, being in my possession as the mediate successor of said Henry, formerly a notary in this city.

In testimony whereof, I have delivered the said presents, and affixed my seal of office.

Signed: LOUIS T. CAIRE, *Not. Pub.*

Document No. 12.

23*d February*, 1743. *Sale by widow D'Hautrive to Mr. Pradel.*

Personally appeared Mrs. Charlotte Bossina, widow of the late Rene D'Hautrive, in his life time knight of the military order of St. Louis, mayor of New Orleans, and formerly widow of Mr. François Duval, cashier general of the company of the Indies in this province; which appears has by these presents, in order to be able to pay the debts of the latter estate, sold, conveyed, set over, and transferred, from this day and for ever, and promises to warrant against all disturbances and hindrances whatsoever, unto Mr. Jean B^te^ Pradel, former captain of a company of marines maintained in this colony, one lot and a half on the wharf of this city, containing 15 fathoms front, by 23 in depth, and forming the corner opposite the intendant's house on one side, adjoining on the other side Mr. Prevost, agent for the company of the Indies, and in the rear, adjacent to the estate of Mr. Danseville, with all the buildings which exist on the said lot, appurtenances, and dependencies, wherewith the said purchaser is satisfied, as having seen and examined the whole, and being in possession thereof according to an act under private signature made between them, which act, by consequence of the present deed, becomes null and void.

The aforesaid sale, conveyance, and transfer is thus made, in consideration of the price and sum of 8,000 livres, colonial money, which the said lady acknowledges having this day received in cash of the said Mr. Pradel, through the hands of us, the undersigned notary, whereof acquittance is hereby given. In consideration whereof, the said Mr. Pradel remains true and quiet owner of the said lot, buildings, appurtenances, and dependencies, without his being, by reason of the above, liable to be disturbed by any person, or in any manner whatsoever, the said lady promising to warrant and indemnify him against all whom it may concern; to hold the same unto the said Mr. Pradel, and his heirs, as a property belonging to him, in the same manner as it was held by Mr. and Mrs. D'Hautrive, who had purchased the said lot from Mr. Charles Demorant, and the said Demorant

from the said late Mr. and Mrs. D'Hautrive, and the said lots came previously from the estate of the late François Orleans Duval, first husband of the present vendor: the said lady promising to deliver to the said purchaser all the titles of property which she may have as has been agreed on. For thus she promises, obligates, renounces, &c.

Done and passed, at New Orleans, in my office, in the year 1743, on the 23d day of February, in presence of Messrs. Augustin Chantalon and François Laroche, witnesses, residing in the place; and they have signed.

The original is signed: Widow D'HAUTRIVE.
PRADEL.
CHANTALLON.
LAROCHE.
HENRY, *N'y.*

A true copy from the original, which remains on record in my office. In faith whereof, I have signed these presents, and affixed my seal of office, at New Orleans, on this second day of March, one thousand eight hundred and thirty-one.

Signed: LOUIS T. CAIRE, *Not. Pub.*

Document No. 13.

Before the royal notary, in the province of Louisiana, residing in New Orleans, personally appeared Mr. Jean Baptiste Raguet, counsellor in the superior council of the said county, residing in the said place, who has spontaneously acknowledged and confessed having sold, conveyed, set over, and transferred, and by these presents does sell, convey, set over, and transfer, and relinquish, from this day for ever, and promises to warrant against all molestations and hindrances, unto Mr. Joseph Chaperon, an inhabitant of Louisiana, here present, and accepting for himself, his heirs and assigns, a lot or portion of ground, situated in this city, on the wharf, and fronting on the river Mississippi, adjoining on one side Mr. Belleville, and on the other Mr. Le Breton. The said lot having, agreeably to the admeasurement and reckoning formerly made by Messrs. the engineers, 60 feet front or 10 fathoms, by 23 fathoms in depth, as the whole has been granted to the seller, by the directors of the company of the Indies about twenty years ago, the titles having been burnt at the fire which happened at the seller's two years ago; in order that the said lot and portion of ground, enclosed and fenced in with pickets, now sold to the said Chaperon, and whereof he has this day been put in possession, after declaring to us that he has seen and examined it, and that he is satisfied therewith, he had held and disposed of by the said purchaser, his heirs and assigns, in full ownership, as a property belonging to him. The said Chaperon has declared to us, that the house built with stakes and covered with bark, which is erected in the back part of the said lot, has not been sold to him; and that the seller has referred it to himself, in order to have it pulled down whenever he shall think proper, and to have all the timber, bricks, iron, and other materials carried off, whethersoever he shall deem proper, without his (the purchaser's) having the right to hinder it in any manner whatever, on condition that the same shall be pulled down and carried off, at latest, in the current of August next.

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The present sale and transfer is made in consideration of the price and sum of 3,000 livres, which the said Chaperon has actually paid and delivered to the said seller, in notes of the Navy treasury, current in Louisiana, wherewith the said Raguet is satisfied, and he does hereby release and discharge therefrom the said Chaperon, acquittance being hereby acknowledged. For thus has it been agreed and covenanted between the said parties on executing these presents, promising, &c., obligating, &c., renouncing all these contrary to these presents.

Made and passed, at New Orleans, in the office of us, the undersigned notary, on the 18th day of April, in the morning, in the year 1743, in presence of Augustin Chantalon and Jacques Cantrille, undersigned, residing at New Orleans; and as to Mr. Chaperon, he has declared to us that he knew not how to write nor sign, after our inquiring into the fact as the ordinance directs.

The minute is signed:

RAGUET,
CHANTALLON,
CANTRELLE, and
HENRY;
The latter a notary.

In the year 1831, on the 10th day of March, these presents have been by me, Louis T. Caire, the undersigned notary public in and for the city and parish of New Orleans, duly commissioned and sworn, collated with the original of the said deed of sale, which is in my possession, as mediate successor of the said Henry, formerly a notary. In faith whereof, I have delivered these presents, and affixed hereunto my seal of office.

Signed: LOUIS T. CAIRE, *Not. Pub.*

Document No. 14.

Before the King's notary for the province of Louisiana, residing at New Orleans, personally appeared Mr. Alexander de Latil, who acknowledges and confesses that he has, this day, sold, ceded, granted, and transferred and relinquished from this moment and for ever, and promises to warrant against all disturbances, gifts, dowers, evictions, substitutions, (that is, entails,) donations, alienations, debts, and mortgages, unto Mr. François Hery, surnamed Duplanty, here present, and accepting for himself, his heirs and assigns, a lot of ground, containing 90 feet front, by 168 feet deep, on which there stands constructed a house sixty feet long, consisting of the first story, built on brick walls, with a cellar below, a gallery 18 feet long on the fore part; said house having neither floors, nor doors, nor windows, and not being plastered over, and remaining unfinished, as the whole now stands and exists, with its appurtenances and dependencies, without reserving nor retaining any part thereof, wherewith the said purchaser rests satisfied and contented, as having seen, received, and examined the whole; the said lot and house being situate on the front of this city, bordering on one side upon the King's lot of ground, where the physician has his lodging, and on the other side, adjoining Mr. De Belisle; to the end that the said purchaser may enjoy the whole, do with it, and dispose thereof, in the manner and form he shall think proper; which enjoyment and possession shall begin from this day.

And the present cession, transfer, and relinquishment, are thus made in favor of the said purchaser, (with the consent of Mrs. De Villemont and of Mr. Delery, to whom the said house was mortgaged, which consents are annexed to the original of these presents,) for and in consideration of the price and sum of 21,180 livres, real and effective money. For the payment whereof, the said Duplanty hath likewise transferred, ceded, granted, and relinquished, and promises likewise full warranty unto the said Latel, accepting and purchasing for himself, his heirs and assigns, another lot of ground, forming the corner of St. Philip and Condé streets, having 60 feet square, on which stands a frame built house, 60 feet front, raised on a wall and small brick columns, completely finished; a frame kitchen, 18 feet long, by 13 wide, built with posts on rafters, weather-boarded, with a chimney, and a brick oven 8 feet wide; a small cellar adjoining the house, and privies; the whole as it stands and exists; to the end that the said Latil, his heirs and assigns, may enjoy it as a property to him well and truly belonging; which lot and house, and buildings, shall be unto the said Latil, in the lieu and stead of the sum of 12,000 livres, real money, and shall go to the payment and acquittance of so much for the said Duplanty, towards the said Latil, as they are covenanted and satisfied with.

And for the remaining 9,000 livres, it has been agreed between the parties that the said Latil shall accept in payment divers notes on various individuals; and to comply therewith, the said Duplanty has actually delivered unto him, in presence of us, the undersigned notary, a promissory note for the sum of 1,470 livres, subscribed by Mr. Marquis, in favor of the said Duplanty, payable in the course of this year, bearing date the 20th March last. Another note of the said Mr. Marquis, for the sum of 1,800 livres, in real money, payable on demand, dated the 1st September last. Another, subscribed by Mr. Monsanto, to the order of Mr. Brousse, for the sum of 3,000 livres, in real money, the payment whereof is now due, bearing date the 26 May last. Another promissory note, made by Mr. Vaugine for the sum of 1,120 livres, for a balance, the term whereof is expired, dated the 8th of December last. Another note of Mr. Monsanto, in favor of Mr. Duplanty, for the sum of 490 livres, the payment whereof is due, dated the 9th November last. Another note to the order of the same, subscribed by Mr. Maxunt, and now due, for the sum of 855 livres 10 pence. And another note, subscribed by Mr. Lecomte, for the sum of 833 livres, payable in bills of exchange; all which notes make an aggregate amount of 9,568 livres, which have been accepted by the said Latel without any warranty, and without recourse on Mr. Duplanty, it being thus covenanted. And whereas the amount of said notes exceed the sum of 9,180 livres, which is the balance of the payment in full of the said houses, Mr. Latel binds himself and promises to pay to Mr. Duplanty, as soon as the note of Mr. Lecomte is paid him, the overplus, viz. 388 livres, the whole being thus agreed on between them.

And by reason of what precedes, Mr. Duplanty becomes full and absolute possessor of the said lot and house; on which the said Mr. Latel quits and releases any lien he may have against the said purchaser, and promises to have it released and discharged by all whom it may concern, they, abandoning to each other all rights, claims, demands and actions, which they might hereafter have; the one, on the lot and house hereby sold, and the other, on the lot given in part payment; it being their will and intention that each of them shall enjoy his aforesaid lot and house in full ownership as a thing

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to him belonging. And for the full performance of these presents, they have each elected their domicil in their dwelling-house in this city, at which place they consent that all instruments of writing, and requisite legal process, be notified to them. Promising, &c. obligating, &c. Renouncing each in his own right.

Made and passed at our office, in New Orleans, on the 12th October, 1765, in presence of Messrs. Leonard Mazange and Henry Gerdrat, witnesses, residing in said city. And they have signed with the parties after the above had been read to them, and with us notary.

Signed: LATEL F. HERY.
HENRY GERDRAT.
L. MAZANGE; and
GARIE, *Notary.*

Next follows the tenor of the two annexed documents.

Mr. Latel is permitted to sell the house he owns on the wharf. I renouncing the mortgage which the minors Morant have thereon, by virtue of a decree of the council. At New Orleans, this 12 October, 1761.

Signed: DELERY.

Mr. De Latel is permitted to sell his house upon the wharf, and out of the proceeds he shall pay me the sum of 3,000 livres, in bills of exchange or very good marketable paper. I request Mr. Garie to locate my mortgage for the balance of the amount, on the lot which comes from Mr. Duplanty, in exchange for the one of the said Latil. At New Orleans, this 12th October.

Signed: PEATIT DE COULANGE DE VILEMONT.

In the year 1831, on the 25th of February, and in the 55th year of American independence, these presents have been collated by me, Louis T. Caire, notary public in and for the city and parish of New Orleans, duly commissioned and sworn, with the original of said deed, and the two documents thereto annexed; the whole being in my possession as mediate successor of the said Garie, an ancient notary. In faith whereof, I have granted these presents, to which I have affixed my seal of office.

Signed: LOUIS T. CAIRE, *Not. Pub.*

Document No. 15.

An order from Baron de Carondelet, dated August 16*th,* 1793, *in virtue of a deliberation of the Cabildo.*

The cabildo of this city, desirous of knowing the opinion of its inhabitants with regard to the utility accruing to the public from their commons, either by granting them by small lots over to persons who would make gardens of them, which measure would, without difficulty, contribute to raise the soil of the immediate vicinity of the city, to rid it of the stagnant waters, and of the palmettas which infest its atmosphere, and would render abundant the vegetables so necessary to health of all classes of society, or by leaving it for pastures, but useful pastures—such as Mr. Sigur's meadow, which can be obtained only by clearing and weeding twice a year said common; an expense which, falling upon the inhabitants, since the commons belong to them,

will oblige them to supply negroes, or to labor in proportion to their respective means. The ward commissaries shall take the vote of each house's owner, whilst they are making the inspection of fireplaces of their ward, which shall commence on the 1st of September, by means of two separate lists, one of which shall be the inscription "Gardens," the other, "Pastures;" which they shall present to the owner of each house, who will subscribe his given and family names to either which he thinks more proper. These lists will then be carried to the cabildo, and that which shall have the greatest number of subscribers, the examine of both having been made in presence of the syndic, shall decide the question. New Orleans, August 16th, 1793.

Signed: BARON CARONDELET.

A true copy, the original of which lies in the archives of Louisiana, from the time of Spanish dominion. Havana, 21st November, 1719.

Signed: JUAN ANTO. LOPEZ.

I do certify that the foregoing document is a faithful translation of an order by the Baron of Carondelet, then governor of Louisiana, on the 16th August, 1793, relative to the intended appropriation of certain part of the commons of the city of New Orleans, an authentic copy of the original of which order is said to have been delivered at Havana by the proper authorities, on the 21st November, 1819, and making part of the archives of Louisiana then deposited.

A. RIVIERE.

The following ordinance was omitted, in making out the transcript, not having been filed, and is now inserted, by consent of parties.

Ordinance of Governor O'Reilly, of the 22d February, 1770, concerning the properties of the city of New Orleans.

In the city of New Orleans, on the twenty-second day of February, one thousand seven hundred and seventy, his excellency Don Alexander O'Reilley, commander of Berfayan, in the royal order of Alcantara, lieutenant general of the royal armies, inspector general of the infantry, entrusted by a special commission with the government and general command of the province of Louisiana, &c.: ordered,

That it being necessary, conformably to the spirit of law, 1st, title 13th, book 4th of the Recopulacion de Indies, to designate city properties, and rents belonging to this city, in order that, with their produce, the Government may face the expenses which must indispensably be incurred for the public good and welfare, following the ordinances and laws relative to these matters—his excellency has designated, under the express name of properties of said city, until his majesty's pleasure be to ordain otherwise, the rents and pensions which follow, viz. forty dollars, which are to be paid yearly by each of the twelve taverns which are permitted to be opened in this city; other forty dollars; annually, due, by each of the six billiard tables; other forty dollars yearly contributed the coffee-houses; twenty dollars; yearly, due by each of the six public eating-houses or hotels in this city; one dollar, that is to be levied on every barrel of brandy introduced into the city; six dollars, to be paid by each boat of the tonnage of two hundred tons and above; and three dollars, to be paid by such boats that do not come up

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to this tonnage, for right of anchorage, established and destined to the keeping in repair of the levee or dyke, which does contain the river within its limits, in the whole front of the city; three hundred and sixty-five dollars, voluntarily offered by the butchers, on condition that this contribution shall not now, or for the future, serve as a motive for altering *for altering* the price of meat, which shall never be done without a well tested necessity; and lastly, the ground situate of both sides of the public square, which his excellency has designated, in the name of the King, as city properties of this city, composed of eighty-four feet, of Paris, in width, and three hundred and thirty-six feet in length, which have been divided and adjudged at perpetuity to the highest bidders, as regulated by law 3d of the above quoted title and book, of which transaction account is given to his majesty, craving his approbation.

In virtue of which, and in order that the major domo of the above said city may collect and receive with sufficient authorization the above said properties, rents, and pensions, conformably to the letter of the regulation printed on the 25th of November of last year, should be, and is ordered by his excellency, that having given due information of the present order to the governor general Don Luis de Verzager, for his intelligence and observance of the same, as well as to the cabildo, the judiciary and magistracy of this city, in order that due notice of it should be taken in its books, the original be deposited in the archives of the Government, which were provided for by his excellency.

In faith of which, I subscribe my name:

Signed: ALEXANDER O'REILLY.

By order of his excellency:

Signed: JUAN BA. GARIE,
Notary Public.

I certify that the above is a true copy *to* the original deposited in the archives of the cabildo, of which I am a clerk; and in virtue of an order from the regidor and major domo, dated this day, I give the present certificate in New Orleans, 13 April, 1798.

Signed: PETRO PEDESCLAUX.

I do certify that the foregoing document is a faithful translation of an ordinance of governor O'Reilly, dated 22d February, 1770, concerning the city properties of New Orleans, of which the original copy is deposited in the archives of the city council of the city of New Orleans.

Signed: A. REVIERE.

Document No. 16.

Letter of Baron de Carondelet to His Majesty the King of Spain, dated 30th March, 1796, relative to the appropriation of commons to the making of gardens.

SIR: The frequent and almost inevitable robberies that are committed in this capital, to which resort in great numbers vagabonds of all nations, an evil which can scarcely be remedied, since, besides this being a country open on all sides, the trade it carries on with the United States of America from the banks of Ohio and Mississippi, as well as with friendly European na-

tions, attracts to it many seamen and other foreigners, have made it incumbent on me to propose to the municipality of this capital to establish a regular illumination of the streets, in imitation of that which is practised in Havana and in the capitals of the provinces in Spain, with much less necessity than in this.

The population of New Orleans not reaching, as yet, 6,000 souls, I was under the necessity of seeking for the least onerous means which might also compel all the inhabitants of the city to contribute, in proportion with their faculties, to the expense of said illumination, and of the necessary watchmen. And the corporation having been of opinion that an annual tax of nine *reales* on every chimney could meet the expenditure, in as much as it would weigh upon the inhabitants of the houses, a repartition was made of the $3,898 and 4 *reales*, which sum is the yearly expense for 13 watchmen and 80 lanthorns; and the account of city rents was charged with the $2,108, the amount of the purchase of 80 lanthorns, with all the necessary appendage, conformably to the annexed receipted accounts. The usefulness of such an establishment was immediately proved by its good effects; the robberies having ceased from that very moment. However, one-fourth of the city having been reduced to ashes in the devouring conflagration of the year 1794, we thought of suppressing the expenditure for watchmen and illumination, on account of the increase of costs and decrease of the number of contributing subjects, in proportion with the loss in houses. The circumstance of the war, the necessity of closely watching a neighborhood composed for the greatest part of French, and that of preventing the nocturnal and secret assemblies, either of these or of the slaves, impressed us, however, with the necessity of preserving this useful establishment; and, indeed, I had the satisfaction of seeing unanimously admitted by the body of the municipality, as well as that of the inhabitants, the augmentation of three reals, which I proposed upon every chimney, which make in all 12 reals yearly, until the ward burnt down be rebuilt; the chimneys of which should contribute as before the conflagration, and then reduce back the taxation to the previous nine *reales*, and even to less, with process of time, as the number of houses will increase. However, if his majesty would approve that the three hundred *toeases* (600 yards) of the commons nearest to the city fortifications, which produce nothing for the present, owing to their being overflowed six months at least every year, might be divided in small lots, which would not exceed sixty *toesas* (120 yards) in front, by 150 in depth, (300 yards,) and let out on credit to such of the inhabitants as will transform them into gardens, with the obligation on their part to pay a small yearly retribution to the illumination fund, it is certain—

1st. That, at the termination of a few years, the whole of that immediate neighborhood to the city will be raised above the level of the waters, of which the owners of these lots will rid themselves, by making small channels that will conduct them down to the canal which will be finished this year.

2dly. That the many putrid or intermittent occasioned by the stagnant waters and decayed matters during the months of July, August, and September, and the considerable mortality resulting from these causes, would be driven from this capital.

3dly. That many poor people, who have nothing to live on, would give themselves up to the cultivation of vegetables, an abundance of which is very

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essential to health in a country warm and damp, and consequently exposed to the scurvy.

4thly. That the product of said gardens would increase the city rents, which hardly amount to seven thousand dollars yearly, and are insufficient to face the expenses, in the supposition that his majesty should not approve that this resource be applied to the diminution of the taxation for illumination.

So much utility, which is so evident, appear to be more than sufficient to unite all the suffrages in favor of the use I propose to make of that part of the immediate vicinity of this capital. Still, when I consulted the opinion of the population, I found the greatest number of them inclined to leave things on their present footing. But I was satisfied that it entirely originated in the personal interest of those who, possessing plantations out of the city, fear that the abundance of vegetables may cause their price to fall, which they carefully maintain at the same height, and sufficiently high, that the poorer classes may be unable to procure a kind of food so conducive to health; which is the very reason for which your royal heart should resolve to order that the 300 *toesas* (600 yards) above mentioned, and in the immediate vicinity of the city, be divided into small lots, which may be distributed at public auction for ten years each, and to the highest bidder, provided the purchasers oblige themselves to cultivate them into gardens.

I hope that your excellency will, in behalf of the public good, and of humanity, solicit his majesty's order for the execution of this measure, as well as his approbation of the expenditures that have been made for the establishment of the illumination and of the watchmen, and the continuation of this approbation of the same, on the above mentioned terms.

Respectfully, your most ob't serv't,

Signed: BARON DE CARONDELET.

To his excellency Don Eugenio de Llaguno.

A true copy of the original deposited in the archives of Louisiana, at the time of the Spanish dominion. Certified by me, Havana, 23d November, 1819.

Signed: JUAN ANTO. LOPEZ.

I do certify that the foregoing document is a faithful translation of a letter of Baron of Carondelet, addressed to his excellency Dn. Eugenio de Llaguno, (then Minister of State in Spain,) relating to the appropriation of certain parts of the commons of the city of New Orleans, for certain purposes, an authentic copy of the original of which letter is said to have been delivered at Havana, on the 23d of November, 1819, by proper authorities, as making part of the archives of Louisiana there deposited.

Signed: A. RIVIERE.

Document No. 17.

Extract from the 4th register of the deliberations of the city council of the province of Louisiana, under the Spanish Government, (fol. 41st recto.)

In the city of New Orleans, on the 15th of July, 1796, met in the halls which serve for the sittings of the city council, the honorable Baron de Ca-

rondelet, knight of the order of St. John, major general of the royal armies, governor general of this province of Louisiana, and of West Florida, &c., and president of this city council, and Don Manuel Perez, &c., (the regidors and members then in office, &c.)

Communication has been given by me, clerk of the said city council, of the representation of the syndic attorney general, in which he shows that continual contestations arise upon the perpetual obstacles put by the owners of the commons which border upon the city, to the cutting of wood by the inhabitants of said city, on the plea that the said grounds belong to them. And considering that it results therefrom, that the city has lost the tatality or the greatest of its commons, although, however, nobody ever had the right of granting the possession of these grounds; and that if any title of concession of them had been granted since this province has passed under the dominion of our august monarch, the said concessions were and ought to be considered as null and of no avail; and that all portions of them that had been thus granted, should be reinstated to the said commons. Wherefore, said syndic attorney general was of opinion that it were suitable to have a general plan drawn of the limits of all the lands which belong to said commons, regulating it upon the plan which existed of them, after having called upon all the immediate inhabitants to be present to its drawing, that they might make known their titles, and be put in possession of the grounds to which they had a just right; and, that consequently he thought it his duty to beseech the honorable governor and president to please to issue orders to that effect. And the members of the city council, after having taken into consideration the purport of the above said representation, have agreed upon ordering, according to what was solicited by the said syndic attorney general; and that a copy of the said decision, duly certified, should be addressed to the honorable governor and president, that his excellency may give orders conformable to said decision. And this deliberation appears signed by the Baron de Carondelet, Manuel Perez, Carlos de la Chaise, Andres de Almonaster, G. Rouvergnes, Pascales De Labarre. Nas. Forstall, J. R. Ducros, who are mentioned at the beginning of the above deliberation as regidors or members of said city council, the whole being countersigned before me.

PIERRE PEDESCLAUX,
Clerk of said city council.

I do certify that the above document is a faithful translation of an extract of the 4th register of the deliberations of the city council of the province of Louisiana, under the Spanish Government, which is deposited in the archives of the city council of the city of New Orleans.

Signed; A. RIVIERE.

Document No. 18.

Royal ordinance of the 21 *of December,* 1797, *for the appropriation of* 300 *toesas (*600 *yards) of the commons to the making of gardens. The King, civil and military governor of the province of Louisiana, residing in the city of New Orleans.*

By my despatch of the 21st of December, 1797, I thought proper to send to your predecessor, the royal order of the following tenor, the King, civil and military governor of the province of Louisiana, residing in the city of New Orleans.

189.

By his representations, dated 30th March, of last year, the Baron de Carondelet, your predecessor, informed me that the frequent and almost inevitable robberies committed in that capital to which land a crowd of vagrants of all nations, without any possibility of preventing it, in a country open on all sides, and the commerce of which besides, with the western States of America, through the Ohio and Mississippi rivers, attracted to it numbers of seamen and foreigners, had compelled him to propose to the cabildo the establishment of lanthorns to illuminate the streets, as practised in Havana and other capitals of the provinces of our kingdoms, though with much less necessity than in New Orleans. That the population of that city, not arising to more than 6,000 souls, it became indispensable to seek the means which should be least burdensome, and to oblige the inhabitants to contribute, in proportion with their means, to the expense of said illumination and for watchmen.

That the city council having thought that a yearly tax of nine *reales* on each chimney could attain the proposed object, by falling on the inhabitants of houses, it was proceeded to the repartition of the $3,897 and 4 reales, to which amounted, annually, the keeping of 13 watchmen and 80 lanthorns, and they carried to the account of the city treasury the purchase of said lanthorns, and their appendages, which, according to the receipts thereunto annexed, arose to the sum of $2,178.

That the utility of this establishment was soon proved by the happy effects which resulted therefrom, robberies having been repressed from that very time; but that the fourth part of the city having been reduced to ashes in the dreadful fire of 1794, it was proposed to suppress the illumination and watchmen, on account of the augmentation of the expenditure of these establishments, and the decrease in the number of contributing persons, a natural consequence of that in the number of houses.

That, however, the circumstances of the war, the necessity of watching over a population, French for the greatest number, of preventing their assemblies both nocturnal and clandestine, and even those of the slaves, impressed the Government with the urgency of preserving an establishment so useful; and that your predecessor having had the satisfaction of seeing accepted by the inhabitants, as well as by the city council, the augmentation that he proposed, of three *reales* for each chimney, it made a total of 12 *reales* annually, until the ward destroyed by fire was rebuilt, and capable by giving its share in the tax, as before the conflagration, to facilitate the reduction of it, to the former nine reales, and even lower afterwards, according as the number of houses should increase.

That if it were my pleasure to grant the 300 toesas (600 yards) of commons most immediate to the fortifications at the going out of the city, which were without value, and overflowed, at least, for six months in every year, should be divided into lots not exceeding sixty toesas (120 yards) in front by 150 (300 yards) in depth, and ceded on credit to the inhabitants, who would offer to convert them into gardens, for a slight yearly retribution, towards the expense of illumination; being of certainty, 1st. That, after a few years, the soil round the city would rise above the level of the waters, to which the owners of lots would give, by means of ditches, a direction towards the canal, which is soon to be completed. 2dly. That thereby the putrid and intermittent fevers very prevalent, and the great mortality which result from them and the stagnant waters and marshes, during the months of July, August, and September, would be driven from

the capital. 3dly. That many poor people, wanting the necessaries of life, would apply themselves to the culture of vegetables; the abundance of which is very essential in a warm and damp country, subject, from these causes, to be afflicted by the scurvy. 4thly. That the product of said gardens would increase the city rents, which hardly come up to a yearly income of $7,000, insufficient to face its expenditure, in the case I should consent to the appropriation of this product to the diminution of the illumination tax.

That so many considerations of an acknowledged utility appeared more than sufficient to unite all opinions in favor of the use he proposed should be made of that part of the vicinity of the city, although he found the greatest number disposed to leave things in their present situation. But that, with regard to this, he knew their only motive to be the private interest of those who had plantations in the neighborhood, or gardens within the city, and who dreaded lest the abundance of the vegetables might lessen the price of them, which they constantly kept up at a rate too high for the poorer classes to enjoy a food so essential to health.

This motive being precisely that which ought, in the royal mind, prompt to ordain that the 300 toesas of ground above mentioned, and situate immediately out of the city, should be divided into small lots, which could be leased for ten years, and sold at auction, separately, to the highest bidder, with the condition of turning them into gardens; and your predecessor hoping that, owing to my wish of promoting the happiness of the people, and of humanity, it would be my pleasure to issue orders that this might be so executed, and, at the same time, to approve the expenses incurred for the establishment of the lanthorns and of watchmen, as well as the tax relative to it, in the abovementioned manner.

The whole considered in my council of Indies, on the account rendered by the treasurer general, having heard my fiscal attorney, and, after having consulted on this subject, the 20th of December of last year, I have determined to approve the establishment of the illumination and watchmen, as well as the expenditure made for the purchase of 80 lanthorns, with their corresponding appendages, the amount of which may be applied, as it has been done, to the account of the city funds, on behalf of the extreme poverty of the inhabitants, taking proper measures, with the owners of the houses, with respect to the tax laid on their chimneys, for the illumination and watchmen; as to the repartition or adjudication by lease of the 300 toesas of ground, I resolved upon sending you order to regulate it, in the presence of the city council of the syndic attorney general, and to render me an account of it, informing me of all that may happen; for such is my will.

Given at Madrid, on the 21st of December, 1797.

I, THE KING.

By order of the King our lord:
Signed: ANTO. VENTURA DE FARANCO.

And since then, by your letter of the 9th of May of the following year, 1798, you sent me an account, with annexed testimonies, that having perceived that the reluctance on the part of the inhabitants to pay the tax of one real per month on each chimney, established for supplying the expense of the luminary and watchmen, proceeded from this tax's falling upon the poor, whose houses, although small, have no less need of chimneys than those of the rich, you had on the proposal that was made on this subject, in the city council convoked by you, to the end of finding the means of settling this business, established a new tax on bread and meat, seeing that there

resulted no inconvenience therefrom for the population; and it was levied on the extraordinary profits of bakers and butchers, in a manner almost imperceptible, and was no more than two drachms on the weight of each loaf, a food which the poor never use but as a gala meal, habitually living upon rice and maize; and considering also that travellers, who profit by the advantages of the country, would by this means contribute to the payment of the new taxes; and you entreated me at the same time to please to give my approbation to them.

And having considered in my council of Indies all the particulars relating to this affair, and the operations already done, on the account rendered by the treasury, heard the report of my fiscal attorney, I thought proper to send you the preceding copy of my royal ordinance, to observe to you, that in putting into vigor the proposed taxes without waiting for my appropriation, you have gone beyond and infringed the letter of the laws 53, tit. 3, book 3, and law 1st. tit. 15, book 4, and to command you, that, in the assembly of the city council, the assessor being present, you cause to be put in deliberation, whether the new taxes on bread and meat, regulated after the amount of the expense for illumination, are preferable to that which existed on chimneys, in order that this comparison being made, they may be either increased or diminished as may be suitable. For such is my will.

Given at Aranjuez, May 19, 1801.

I, THE KING.

By order of the King our lord:
Signed ANTONIO PORCEL.

I do certify that the foregoing document is a faithful translation of an ordinance or royal schedule rendered by the King of Spain, on the 1st of December, 1797, for the appropriation of a certain portion of the commons of the city of New Orleans, as taken from the original, which is deposited in the archives of the city council of New Orleans.

Signed: A. RIVIERE.

Document No. 19.

Resolution of the City Council, dated 3d February, 1812, *relating to the fire-pump.*

Considering the letter written by M. R. H. Latrobe, dated 24th December last, in which he states that he has submitted to Congress the petition of the corporation relating to the fire-pump intended to supply the city of New Orleans with water, but that the decision of Congress on this subject appears likely to be adjourned for some time: and, considering that it is urgent to take some measures to accelerate this decision, if possible, and render it favorable to the city of New-Orleans,

Resolved, That the Mayor will apply to Messrs. Fromentin and Magruder, delegated to Congress by the Orleans convention, and invite them, in behalf of public interest, to use all the necessary diligence, on their arrival at Washington city, to obtain that Congress be pleased, in the course of its present session, to take into consideration the object of the abovementioned petition, and give a decision favorable to the petitioners, praying that honorable assembly to observe, that, when the city of New Orleans was built, the Government left vacant, and for the use of the public, a lot of ground situate between the river and the line of the first houses; that the King of Spain ordered a custom-house to be located on the part of this ground which

the corporation thought suitable for the establishment of the fire-pump; that this custom-house became the property of the United States at the time of the cession of Louisiana, and was demolished a short time after; but that the General Government, by building a new custom-house a few yards higher up than the former, was indemnified for the position of ground occupied by this; that, according to the letter of Spanish laws which rule this country, this sort of vacant spots on the front of cities cannot be occupied but by edifices consecrated to the objects of public utility or embellishments; that these same laws give to the cabildos (city councils) the right of disposing of said spots for the utility and embellishment of cities; and that the corporation of the city of New Orleans, in virtue of the treaty of cession, and of the dispositions of its charter, has been invested with the rights of the cabildo of Louisiana; that, in the present circumstances, the corporation is not soliciting any favor for itself. That, nevertheless, jealous of obtaining the sanction of the sovereign authority, it had thought it would be sufficient, in its petition to Congress, to avail itself of the acknowledged necessity of the contemplated establishment, the least advantages of which would be of securing New Orleans from the dreadful scourge of conflagration, an establishment whose salutary effects would be felt and appreciated by the greatest number of our fellow-citizens of the United States, particularly those of the western States, who every year arrive at this city at the time of the greatest heat, and the greatest number of whom fall victims of the epidemic fevers which there exercise their ravages, and would become much more rare and less fatal were the atmosphere of this city daily refreshed and purified, during summer, by the frequent sprinklings made with the salutary water of the Mississippi, which cannot be obtained without the assistance of a fire-pump; that the edifice destined to contain this pump is an object both of utility and embellishment for New Orleans; and that it be really to be lamented that the views of Congress should differ from those of the corporation as to the location above mentioned, which, in the opinion of the corporation, can never either be sold or rented to private individuals, or disposed of, except for useful establishments of the nature of the one here intended, in the success of which all the inhabitants, both of the territory and the city of New Orleans, take the most intense interest, and the precious advantages of which would spread, as we have already said, upon our fellow-citizens of the divers States of the Union; that, in short, the prompt success of the establishment depends on the sanction of Congress, a sanction which will be considered as a new favor added to those for which the inhabitants of New Orleans are indebted to it.

Resolved, That a copy, in English, of the present deliberation, shall be remitted to Messrs. Fromentin and Magruder, as well as a copy of the above petition, and of the ordinance that grants to Mr. Latrobe the privilege of supplying the city of New Orleans with the Mississippi water by means of one or several fire-pumps.

A deliberation of the city council, in its sitting of the 1st of February, 1812.

Signed:

Approved 3d Feb'ry, 1812.

Signed. JA. MATHER, *Mayor.*

I do certify that the foregoing document is a faithful translation of a resolution passed by the city council of the city of New Orleans, on the 1st of

February, 1812, and in the French language, relative to the fire-pump of the city of New Orleans.

A. RIVIERE.

And afterwards, to wit, on the day and year aforesaid, on the trial of the cause aforesaid, the following plans were introduced in evidence in said cause.

[*For plans, see original, page* 98.]

And afterwards, to wit, on the first day of September, 1831, came the defendants, by their counsel, Moreau Lislet, esquire, and filed the following petition of appeal, to wit:

2179. *Petition of appeal.*

The UNITED STATES, *vs.* MAYOR, ALDERMEN, &c. } *To the honorable the district court of the United States for the eastern district of Louisiana.*

The petition of the mayor, aldermen, and inhabitants of the city of New Orleans,

HUMBLY SHOWETH:

That your petitioners think themselves aggrieved by a judgment rendered in your honorable court, on the 18th of June last, in a case in which the United States were plaintiffs, and your petitioners the defendants; wherefore your petitioners pray that they may be allowed to appeal from the said judgment to the Supreme Court of the United States, on their giving Denis Prieur, esquire, a freeholder of the parish of New Orleans, as their security, in such a sum your honorable court will think proper to determine.

And, as in duty bound, &c.

MOREAU LISLET,
Of counsel for pl'ffs.

Judge's order.

Be it so, on the appellants entering into bond with Denis Prieur as their security, in the sum of one thousand dollars, conditioned according to law.

Signed: SAM. H. HARPER,
Judge U. S.

And afterwards, to wit, on the 7th day of September, 1831, the following citation of appeal was issued from the clerk's office, to wit:

Citation of appeal.

To the United States of America, or their agent or attorney, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington, being the place of the sessions of said court, on the second Monday in January next, (1832,) pursuant to the within contained petition of appeal, to show cause, if any there be, why the judgment rendered against the mayor, aldermen, and inhabitants of the city of New Orleans, as within contained, should not be reversed, and why the error complained of should not be cor-

rected, and why speedy justice should not be done to the parties in that behalf.

Witness my hand and seal, at the city of New Orleans, this 7th day of September, 1831.

SAM. H. HARPER,
Judge U. S. for Louisiana.

Marshal's return.

Upon which citation, the marshal made the following return, to wit:

Received 8th September, 1831. Served same day, personally, on John Slidell, esq., U. S. dist. att'y, and returned this citation into court.

L. C. BACON,
D'y Marshal.

Clerk's certificate.

COURT OF THE UNITED STATES, *Eastern district of Louisiana, ss.*

I, Franklin W. Lea, clerk of the district court of the United States in and for the eastern district of Louisiana, do hereby certify that the aforegoing 106 pages contain a full, faithful, and true transcript of the records and proceedings, together with all the proceedings and evidence relating thereto, in the case of the United States *vs.* the mayor, aldermen, and inhabitants of the city of New Orleans, No. 2179, so far as the same now remain on file in the said court.

In testimony whereof, I have hereunto signed my name, and affixed the seal of said court, at the city of New Orleans, this 12th day of November, A. D. 1831, and 56th year of the independence of the United States.

F. W. LEA, *Clk.*

Judge's certificate.

UNITED STATES OF AMERICA, *Eastern district of Louisiana, ss.*

I, Samuel H. Harper, judge of the United States for the district of Louisiana, do hereby certify that Franklin W. Lea, who has certified the foregoing transcript, is now, and was at the time of so doing, clerk of the district court of the United States for the eastern district of Louisiana; and that to his official attestations as such, full faith and credit are due, and that the attestation to said transcript is in due form of law.

Given under my hand, at the city of New Orleans, this 2d of December, A. D. 1831.

SAM. H. HARPER,
Judge U. S. for Louisiana.

Personally appeared before me, one of the associate judges of the city court for the city of New Orleans, the honorable Denis Prieur, mayor of the said city, who, being first duly sworn according to law, did declare and say, that he has this day caused to be lodged in the post office of the said city, a package folded up in a leathern cover, and directed to the counsel of the corporation of New Orleans, near the Supreme Court of the United States, at Washington, Dist. of Columbia, said package containing the record of an appeal taken and carried by the said corporation before the said Supreme Court of the United States, on a judgment rendered by the district

court for the district of Louisiana, between the United States and the said corporation. And this appearer further declares, that notwithstanding every possible diligence was used on his part to obtain the copy aforesaid of the record of appeal in the said case, he has been utterly unable to get it before this day, 1stly, in consequence of the bulk of the said record, and of the great number of plans and documents contained therein; 2dly, for the reason that at the time the copy of record aforesaid was to have been delivered to him, (this appearer,) he was informed by Joseph Pilie, the surveyor of the said city, that the copies which the clerk of the United States' district court had caused to be made, by an artist of his own choice, of four of the plans originally made by him, (the said Joseph Pilie,) were materially incorrect; and it therefore became necessary to cause four correct copies to be made by the said Joseph Pilie, and to have them substituted to the other four which had been found imperfect; and that this could not be done without applying to it during a certain space of time, wherefore this appearer, in his official capacity, and in the name and behalf of the corporation of the city of New Orleans, does hereby solicit the indulgence, both of the Supreme Court and of the attorney general of the United States, should it so happen, by accident or otherwise, that the said record of appeal should not reach its destination before the time at which the said appeal has been made returnable.

D. PRIEUR, *Mayor*.

Sworn to and subscribed before me, New Orleans, December 10th, 1831.

GALLIEN PREVAL, *Judge*.